Environmentalists clamor for stricter controls on the chemicals.

Their opponents say some substances don’t deserve negative attention.

**More regs needed**

By JANET NOGAKI and DON HUBER

In her zeal to bow to the wishes of industry to make New Jersey "business friendly" at any cost, Gov. Christie Whitman has launched a major assault on our right to know about toxins in the workplace. Environmental organizations such as the New Jersey Environmental Federation along with the N.J. State Firemen's Mutual Benevolent Association have charged the governor with going too far, too fast in the rush to deregulate, thereby endangering the surrounding communities, workers and emergency responders with exposure to toxic chemicals.

Eleven years ago, Gov. Thomas Kean signed the Worker and Community Right to Know Act in answer to the collective outcry of concerned environmental groups, emergency responders, and responsive legislators. The law, enacted despite fierce opposition by local and state industry, recognizes that the public and workers have an inherent right to know about hazardous substances in the workplace, since knowledge about the names and properties of toxic substances is critical to making informed decisions about how to work with and manage them safely.

In its original form, the law required businesses which used or stored hazardous substances to train workers, label containers in the workplace, and state public safety officials an inventory survey of any amount, or "zero threshold", of approximately 2,800 substances identified as environmental hazardous substances.

Over time, industry representatives have contended that the "zero threshold" reporting requirement presented an overly rigorous burden, and that labeling and reporting very small containers of "consumer-type" products such as cleaning products or correction fluid was unnecessary.

Small containers exempted

As a result, compromise regulatory changes were proposed and adopted that were agreed to by the Right to Know and Act Coalition, which consists of 150 labor, environmental, and citizen groups who advocate for the law. These regulations exempt small containers from special labeling, and also a 100-pound reporting threshold for environmental hazardous substances. By instituting a reporting requirement on the number of inventory data entries will be reduced by 70 percent, a considerable reduction in paperwork. (Note: It has always been the position of the Firemen's Mutual Benevolent Association that reporting thresholds should be established on a chemical-by-chemical basis, based on the nature of each individual substance and its potential effect in terms of flammability, reactivity, or as a health hazard.)

Nevertheless, DEP Commissioner Robert Shinn wasn't satisfied. He decided that even more regulatory relief was necessary.

On June 30 of this year, the DEP deleted the reporting of 2,000 substances on the U.S. Department of Transportation (DOT) List of Hazardous Materials unless used in quantities of 10,000 pounds, while at the same time proposing to raise the 100-pound threshold to 500 pounds for the remaining 785 reportable hazardous substances.

At a public hearing on the proposal on Aug. 16, business lobbyists representing the Chemical Industry Council, the Flavors and Fragrances Association, the N.J. State Chamber of Commerce, and PSE&G eagerly supported the DEP's move and went even further to urge the agency to consider raising the threshold even higher to the 10,000-pound limit used in certain federal right-to-know guidelines.

Members of the Right to Know and Act Coalition call into question the rationale for "aligning" New Jersey's regulations with the weaker federal program. According to Dolores Phillips, legislative director of the New Jersey Environmental Federation, "To shorten the list of reportable hazardous substances in the interest of relieving a regulatory burden on industry is a dangerous and immoral move on the part of the DEP Commissioner ... New Jersey, with a generation rate of 15.2 billion pounds of toxic chemicals per year (one ton per resident), has the distinction of having the highest concentrations of toxic chemical emissions per square mile of any state. Our reputation for having the highest number of Superfund sites (104) of any state is testimony to the legacy of toxins that we bear from the past. The Right-to-Know program is the community's insurance, assurance against future pollution problems from toxic substances through full disclosure, worker and emergency responder training, and labeling."

Responders need full disclosure

As for emergency responders, shouldn't they be afforded all the information possible to allow them to do their job with greater confidence and competence when called to the scene of a fire, release, injury, or spill involving one or more toxic substances? Would you want to be around when a firefighter unwittingly puts water on a water reactive chemical like magnesium, which in quantities as small as five pounds could cause an explosion serious enough to blind an emergency responder or a bystander? Magnesium is one of the 2,000 hazardous U.S. DOT-listed chemicals eliminated from being reported by businesses to local and state public safety officials.

Emergency responders knowingly and willingly face dangers on the job every day, but their exposure to risk can and should be minimized wherever possible. While we truly respect and do not wish to minimize the often-feared financial concerns of our community businesses, the governor and the DEP commissioner need to understand the priority in this matter should be life safety, not only for our emergency responders, but also for the citizens for whom they have taken an oath to protect and serve.

Gov. Whitman, are you listening? While the public and the Legislature debate the right to know about sex offenders in our neighborhoods, we should preserve existing right-to-know laws about toxic chemicals, a major offender in this state. Your demonstrated concern for safety of the community from sex offenders is tarnished by your disregard for community and worker safety from toxins.

Jane Nogaki, a resident of Marlton Lakes, is co-chair of the N.J. Right to Know and Act Coalition and a board member of the N.J. Environmental Federation. Don Huber, who resides in Tiverton, chairs the legislative committee of N.J. Firemen's Mutual Benevolent Association.
National Standards Institute, according to the chemical industry official who oversaw the project to revise the rule.

The action by ANSI's Board of Standards Review caps the effort by the Chemical Manufacturers Association to update the ANSI Z129.1 rule for precautionary labeling of hazardous industrial chemicals, Suzanne Croft, CMA's associate director for product stewardship, told BNA Oct. 7.

The revisions include an overview of the standard for easier reading, an introduction to clarify the relationship between labeling and an overall hazard communication program, assistance for manufacturers trying to prioritize information for labels on small packages, and new definitions, according to Croft.

The revised standard also contains new informational annexes, including examples of text and symbols to use on labels and a summary of environmental labeling requirements, she added.

CMA acted as the secretariat for the project to revise the standard. ANSI standards are consensus industry rules that must be updated every five years.

The chemical manufacturers began the public part of the consensus effort in November 1993 when the association canvassed some 58 outside parties for comment on the proposed revisions (23 OSHR 744). Copies of the revised ANSI Z129.1 may be purchased from CMA until the standards institute publishes the document. Contact CMA Publications Fulfillment, 2501 M St. N.W., Washington, D.C. 20037. The cost is $12 for CMA members, $18 for non-members.

Once ANSI publishes the standard, interested parties must obtain it through the standards institute, according to Croft. She said it probably would be three months to six months before ANSI publishes the document.

**Smoking**

**BAN TO PROTECT OFFICE WORKERS TAKES EFFECT; WASHINGTON RULE HAILED AS 'HISTORIC MOMENT'**

SEATTLE—As the state's ban on smoking went into effect Oct. 7, Washington Gov. Mike Lowry (D) hailed the restriction as a "historic moment for worker safety and health."

"It is a major step forward in protecting workers from serious health risks associated with secondhand smoke," Lowry stated in an Oct. 7 news release issued by the Department of Labor and Industries.

Enforcement of the department's rule against smoking in offices—the first such ban in any state—began Oct. 8.

The department said the Washington State Court of Appeals earlier on Oct. 7 rejected an appeal for an emergency stay of the rule sought by tobacco companies and businesses that are challenging the smoking restrictions.

The tobacco firms and other businesses began litigation against the rule several months ago (24 OSHR 369). On Oct. 6, the plaintiffs sought discretionary review by the appellate court of a Sept. 28 ruling by a Thurston County judge on procedural matters concerning the rule, according to Timothy Butler, the attorney for the plaintiffs.

In September, the judge denied motions filed by the plaintiffs for a stay of the effective date of the rule and for summary judgment (24 OSHR 999). The department has an Oct. 12 deadline to file a response to the appeal, Butler told BNA Oct. 7. The plaintiffs also filed a motion with the appellate court asking it to stay the effective date of the smoking rule pending the outcome of the appellate review process. Butler said.

A trial date on the substantive issues has not been set.

The department said Oct. 7 it will react to first-time complaints of violations of the rule by notifying employers of the smoking prohibition. Employers who continue to violate the rule could be fined from $50 to $200, depending on the size of the employer, the department said.

Violations could be classified as "serious" if employees are constantly exposed to smoke. Employers could be cited for "general" violations if exposure is a brief, one-time incident or if exposure is from an indirect source. The agency noted that employers may appeal citations or penalties for health and safety violations.

**Enforcement**

**OSHA COMPLIANCE INTERPRETATIONS ISSUED FOR GUARDING OF MASONRY SAWS, OTHER EQUIPMENT**

Guards around blades of masonry saws used to cut tile and other non-metal surfaces must be semi-circular in shape to comply with Occupational Safety and Health Administration regulations, according to an agency compliance instruction released Oct. 4.


The three-page instruction, dated Sept. 26, also affects:

- 29 CFR 1926.303, which sets requirements for construction-related hand and power tools used in grinding (Reference File, 31:3175); and
- 29 CFR 1926.702(i), which establishes construction-related equipment and tool requirements for concrete and masonry construction (Reference File, 31:3254).

The instruction will be published in a future Reference File supplement.

**OSHA Reform**

**HEFLEY BILL SEEKS TO STRIP JOB SAFETY AGENCY OF AUTHORITY TO ENFORCE WORKPLACE STANDARDS**

The Occupational Safety and Health Administration's ability to inspect job sites and to issue citations for hazardous working conditions would be stripped under a House bill introduced Sept. 30 by Rep. Joel Hefley (R-Colo).

The OSHA Reform Act of 1994 (HR 5146) is intended to promote worker safety through cooperation and education between OSHA and employers, Hefley said in a statement.

He asserted that Democratic efforts to overhaul the Occupational Safety and Health Act have been misdirected.

"Instead of debating how to expand OSHA's mission, we should debate the mission itself," Hefley said. "After 24 years and billions of dollars invested, it's time to ask OSHA for an honest accounting."

Criticizing Democrats such as Rep. William D. Ford of Michigan for trying to broaden OSHA's regulatory and enforcement authority with the Comprehensive Occupational Safety and Health Reform Act (HR 1280), Hefley said the job safety agency has not been effective in preventing workplace injuries and deaths.

Instead, employers perceive OSHA as an agency primarily driven by the need to obtain revenue for the federal government by collecting fines issued in enforcement actions.

To remedy the situation, Hefley's measure proposes the following:
The proposed spending plan also continues substantial reductions in other programs that center on the enforcement of health regulations.

FOR INSTANCE, the Department of Environmental Protection, oversight program, first cut from $5.18 million in 1994 to $4.55 million in 1995, continues to operate at a reduced level. As the department's program for combating illegal waste disposal, the SCI is not happy about it. James Brownlee, director of the SCI, said that many of the cuts are in investigation, prosecution and enforcement policies will be carried out with fewer examiners.
Environmentalists assail DEP cutback

At rally, cite Lodi chemical explosion

By DUNSTAN McNICHOL
Trenton Bureau

TRENTON — The chemical explosion in Lodi last week shows that Governor Whitman should be expanding the state's role in environmental monitoring, not cutting its budget and staffing, environmentalists and state workers said Wednesday.

About 200 workers at the state Department of Environmental Protection staged a noontime rally outside DEP headquarters to protest Whitman's budget cuts. Jane Nogaki, a board member of the New Jersey Environmental Federation, told the workers that the blast at Napp Technologies Inc. "could have been prevented."

"We need more oversight, we need more enforcement, we need a broadening of the laws, not a weakening," Nogaki said.

The rally came just two hours after Whitman told high school students attending an environmental summit at the DEP that the $18 million in cuts she has proposed for the department will not compromise environmental safeguards.

But, Whitman said, "You cannot compete if you continue to treat business and industry as an enemy."

Under Whitman's proposed budget, half the DEP's work force would see their workweek reduced from 40 hours to 35 hours, 100 employees would be laid off, and funding for water monitoring and other functions would be reduced or eliminated.

Whitman's critics at the rally accused the governor of "turning the clock back to a time when industry polluted New Jersey freely."

Specifically, they said, the Napp tragedy shows the dangers of Whitman's plan to cut support for the Toxic Catastrophe Protection Act by $500,000, or 42 percent. The law requires companies using the most dangerous chemicals to develop special operating and training procedures, and an emergency response plan.

Because Napp was not required to report the chemicals on its property to the state under the act, critics say that Friday's explosion shows the measure should be broadened, not cut.

In addition, Jeff Scott, a union representative for DEP workers, said the fact that Napp employees failed to report the accident for at least 12 hours before the explosion shows industry cannot be trusted to police itself.

"It's the threat of people out there who might catch you, that's when people comply," he said. "At Napp, they went through two shifts without anybody doing anything, then the whole place blew up."

Scott said Whitman's budget cuts will mean that only half the companies now covered by the act will be inspected annually.

...
Lodi blast leads to new look at state law

Right to Know deletions questioned

By DUNSTAN McNICHOL
Trenton Bureau

TRENTON — The fatal chemical explosion in Lodi has prompted Governor Whitman to take another look at which chemicals should be listed as hazardous under the state's Right to Know Act, but she denied that her decision to slash the list by two-thirds last year contributed to the tragedy.

"I want to make sure that everything that needs to be listed is listed," she said during a brief news conference Friday. "We have asked the Department of Environmental Protection to come together with the Department of Health and the Department of Labor to ensure we're all in sync with what chemicals are considered hazardous and what chemicals need to be listed."

Last year, Whitman trimmed 2,000 items from the list of chemicals that private firms must report to state officials and local emergency personnel.

Among the substances dropped were the three that triggered the April 21 explosion at Napp Technologies Inc., although federal regulations still required the firm to notify state and local officials if more than 10,000 pounds were kept on site.

Smoke bombs, grenades with poison gas, and Mace also disappeared from the right-to-know list under Whitman's revisions.

Asked if the review could restore some of the materials to the list, Whitman said it was too soon to tell.

"There could be," she said. "We're looking to make sure that we have everything necessary listed."

Under the revised right-to-know rules, Napp this year reported only 64 chemicals on its Lodi site. A year earlier, Napp's report listed 339 substances, including two of the three cited as the cause of the explosion that killed five workers.

That has forced emergency workers cleaning up the ruined Napp site to rely on the firm's older, more extensive report to identify the chemicals still leaking from drums and pooling on concrete floors.

Along with the change in reporting requirements, Whitman's upcoming state budget would reduce the hours worked by DEP employees in the right-to-know program and would cut the program's budget by at least $200,000.

"Governor Whitman's reckless assault on New Jersey's right-to-know law continues to jeopardize public safety," Assemblyman Charles "Ken" Zisa, D-Hackensack, said in a statement issued Friday. "Instead of protecting emergency workers and residents, the change in the law created deadly loopholes."

Environmentalists said Friday that Whitman should forgo the multiagency review and simply reinstate the old right-to-know list.

"We would argue it [a comprehensive list] was already in place," said Bill Wolfe, policy research director of the New Jersey Environmental Federation. "She took steps to see it was reduced."

Whitman also insisted that "the Lodi explosion had absolutely nothing to do with what was listed or not."

"What happened there, unfortunately, is workers in the plant mixed chemicals incorrectly," she said. "They knew they had a problem, they failed to notify authorities, which is required in the handbook itself, with tragic consequences."

Those comments enraged a union leader, who said Whitman should await the results of an ongoing federal investigation into the episode before blaming workers.

"The governor's statements appear to be more ignorant than before the explosion," said Rick Engler, vice president of the New Jersey Industrial Union Council. "Maybe she ought to get out of her horse country and walk around a real chemical plant with real chemical workers."
Lodi fire sparks call for wider disclosure

By RON MARSICO and TERRI P. GUESS

Bergen County legislators yesterday urged Gov. Christie Whitman to restore the 2,000 chemicals deleted last year from a list covered by the state's Right-to-Know Law.

The request by Assemblyman Charles Zisa and Assemblywoman Lo- retta Weinberg, both Democrats, came after reports surfaced that the chemicals involved in the fire last month at Napp Technologies Inc. in Lodi were not required for listing on reports submitted by the company to the state in 1994.

"Gov. Whitman's reckless assault on New Jersey's Right-to-Know Law continues to jeopardize public safety," said Zisa. "Instead of protecting emergency workers and residents, the change in the law created deadly loopholes."

Zisa and Weinberg promptly asked after the Lodi fire for legislative action to strengthen the state's hazardous material notification law.

Lloyd Kaplan, a Napp spokesman, said the chemicals - aluminum powder, sodium hydrosulfite and benzaldehyde - were not included on its 1994 roster because they were not stored on the site in the required quantity.

In addition, he said the delivery of the chemicals for processing took place after the filing date.

The original Right-to-Know Law required businesses to label approximately 3,000 types of hazardous chemicals and to notify local authorities. Weinberg said businesses are required to disclose only 800 chemicals under a revision of the law.

Jonathan Holt, another Napp spokesman, said its 1993 disclosure report listed 339 chemicals. Following the revision, the 1994 report listed 64 hazardous chemicals.

"We must take action now to correct deadly loopholes in the law that still place emergency workers and local residents at risk," Weinberg said.

Investigators say the Lodi explosion occurred when water inadvertently was added to a mixture of 1,000 pounds of aluminum powder, 8,000 pounds of sodium hydrosulfite and an unknown quantity of benzaldehyde.

When asked about the Assembly members' call for reinstating the chemicals, Whitman said, "First of all, I want to assess whether in fact those three items were dropped from the list, or were they never part of what had to have been reported."

"But that's not the point. The point is, what . . . if they were improperly mixed? The tragedy that occurred was something that was going to happen no matter what was listed where," she said.

"The other side of that is, can we do more in making sure we know exactly where the chemicals are stored so we can have some kind of indication when you're facing a fire like that."

The Governor said she has asked the commissioners of of environmental protection, health and labor to develop a list that encompasses all their con-cerns. Elaine Makatura, spokeswoman for Department of Environmental Protection, said she could not determine whether one list was more inclusive than the other, but that the U.S. Environmental Protection Agency is investigating and reviewing what chemicals were listed on the reports and when.
NEW JERSEY

Lodi explosion prompts new look at chemical list

The Associated Press

NEWARK — A chemical explosion in Lodi which left five people dead has prompted Gov. Christine Whitman to take another look at newly revised environmental laws.

Whitman has asked state agencies to review the chemicals listed as hazardous under the state's Right to Know Act. Last year Whitman cut 2,000 items from the list of chemicals private firms are required to report to the state.

"We have asked the Department of Environmental Protection to come together with the Department of Health and the Department of Labor to ensure we're all in sync with what chemicals are considered hazardous and what chemicals need to be listed," she said.

The three substances blamed for the Napp Technologies explosion were among those dropped from the Right to Know list, but federal law still required the firm to notify officials if more than 5 tons were kept on site.

Napp spokesman Jonathan Holt said the company's 1993 disclosure report listed 539 chemicals. After the revision, Napp's 1994 report listed 64 hazardous chemicals.

"Basically, compliance increased across the board," John Spinello of the agency's enforcement section told The Press of Atlantic City.

But removing so-called "point-source pollution," he said, made it easier to monitor industrial pollution.

Runoff contamination gets blame for water problems in some areas

The report found ocean-beach closings were up from 14 in 1993 to 50 last year, but tended to be more localized than in previous years. Twenty-seven of last year's beach closures were in Atlantic City.

Buy-beach closings shot up 218 percent to 172, the highest since more than 200 bay beaches were shut down to swimmers five years ago. The bay closures were caused by bacterial contamination from storm-water runoff, the report said.

The report also found that more than three-quarters of the state's rivers and streams were not fit for taking a dip. More than 50 freshwater areas tested, improving at 22 and declining at 22. Among the areas where water quality declined, the Maurice River near Millville, the Salem River and the Mullica River at both Ansonia and Green Bank.

Nutrients and bacteria levels were excessive in more than 80 percent of the freshwater tested. Among the areas where water quality declined, the Maurice River near Millville, the Salem River and the Mullica River at both Ansonia and Green Bank.
Chemical plant tragedy prompts call for review of safety programs

By TERRI P. GUESS

Union leaders for displaced workers at the former Napp Technologies in Lodi yesterday urged state officials to examine safety management programs at all chemical plants in New Jersey.

Maintaining employees should not be blamed for the chemical accident that led to an explosion which claimed the lives of five workers and destroyed the factory, the labor representatives joined affected employees, firefighters and members of the New Jersey Right to Know and Act Coalition in calling for stronger laws governing hazardous material storage and handling.

"The first step that can be taken to assure safer workplaces and to prevent tragedies like the Napp explosion from happening again is for Gov. Whitman and state and federal legislatures to stop all attacks on current health and safety laws," Bill Kane, president of the New Jersey Industrial Union Council, said during a hearing of the Assembly Labor, Business and Industry Committee in Hackensack.

"The Governor should stop gutting the chemical Right to Know and Toxic Catastrophe laws through draconian budget cuts,"

—Bill Kane, union official

were unaware of what chemicals were stored on site. And, union personnel and some elected officials have noted the three chemicals involved in the Lodi explosion had been deleted from the states Right to Know Law.

Eric Scherzer, vice president of the union, asked that officials recommend to President Clinton that funding be given to the Chemical Safety and Accident Investigation Board for evaluations of safety procedures at chemical plants.

Scherzer added he was disturbed the Governor said the Lodi explosion occurred after employees incorrectly mixed chemicals, although there was no supporting evidence. He said authorities should wait for the results of investigations by the federal Occupational Safety and Health Administration before blaming the workers.

"It's far too easy to blame the victims when the management systems must be in place to control hazardous operations," he said.

"Since people are human, errors sometimes occur. But even when errors are made proper management systems are designed to catch errors. Proper management systems have controls to prevent errors from causing explosions. Proper management systems prevent death and destruction."

we should let OSHA complete a thorough investigation of all the factors that might be potentially involved in a chemical accident, including plant design, mechanical integrity, maintenance, operating procedures and training."

An OSHA spokesman said an agency investigation could take months to complete, but noted law requires it to conclude within six months from an incident.

Thomas Canzanella, vice president of the Professional Fire Fighter Association, said it is imperative that members of the state Legislature "stop the administration from dismantling occupational and safety and health protections."

"We need a way of knowing what chemicals are stored in warehouses," added Hackensack Fire Chief Richard Johnson. "We need strong Right to Know legislation. Rather than weakening Right-to-Know, we need to encourage private industry with incentives to install better fire protection measures and programs to train workers," he said.

Roma said the disasters in Bergen County have brought to light serious problems in the workplace that need to be addressed, and that the committee is seeking ideas on how to improve the states' efforts in promoting workplace safety and health.

Also attending the hearing were Assemblywoman Loretta Weinberg (D-Bergen), Assemblyman Robert Smith (D-Middlesex), Assemblywoman Rose Heck (R-Bergen) and state Sen. Byron Baer (D-Bergen).
**Panel: Hears testimony on chemicals**

From Page NJ-1

Cmerce, and labor officials, focused on recent revisions to the state's right-to-know law, which mandate reporting of hazardous chemical storage.

"In recent years we have heard a lot of complaints from the business community about excessive regulation and related paperwork. Some say it drives away jobs," said Roma, committee chairman.

"But situations like the Hackensack and Lodi fires highlight the legitimate need for public action to protect the health and safety of the people, even if it may seem inconvenient to some." Five workers were killed and more than 400 residents were evacuated from their homes a month ago when an explosion and fire destroyed the Napp Technologies Inc. chemical plant in Lodi.

On March 29, a chemical fire at the Causeway Warehouse and Distribution Transport Co. in Hackensack raged for a full day, sending 24 firefighters to hospitals for treatment due to exposure to noxious smoke.

"This was scary. It reminded us of the Ford fire in 1988 when five firefighters died." The committee, which also includes Assemblywoman Rose Marie Heck, R-Hasbrouck Heights, and Stephen A. Mikulak, R-Middlesex County, will meet again in several weeks to continue hearing testimony. The committee can propose legislation based on its findings.

**Toughen rules on chemicals, lawmakers told**

"The lives of residents and firemen are at risk," said Assemblyman Robert G. Smith, D-Middlesex County, along with union officials, firefighters, and environmental groups testified Monday before the committee on the "right to know" for business while putting the safety of our residents at risk," she said.

"Reporting of the chemical inventory at a plant cannot prevent all accidents," testified Gerald Nichols, director of the Department of Environmental Protection's division for environmental safety, health, and analytical programs. Nichols said the DEP backed the move to reduce the list of chemicals that must be reported.

Before the change in the right-to-know law, the DEP faced criticism that it required companies to "report inconsequential amounts" of chemicals on site, Nichols said.

But Assemblywoman Loretta Weinberg, D-Teaneck, said the fires underscore the need for tougher laws. "We cannot afford to have our vulnerable populations at risk in the dark about what it was facing at the warehouse fire. He urged passage of legislation to toughen reporting requirements.

"An hour or so into the fire, we realized we had a more serious incident," Johnson said. "This fire was scary. It reminded us of the Ford fire in 1988 when five firefighters died."

Hackensack Fire Chief Richard Johnson told the committee that current laws left his department in the dark about what it was facing at the warehouse fire. He urged passage of legislation to toughen reporting requirements.

"An hour or so into the fire, we realized we had a more serious incident," Johnson said. "This fire was scary. It reminded us of the Ford fire in 1988 when five firefighters died."

The committee, which also includes Assemblywoman Rose Marie Heck, R-Hasbrouck Heights, and Stephen A. Mikulak, R-Middlesex County, will meet again in several weeks to continue hearing testimony. The committee can propose legislation based on its findings.
Spark blamed for toxic fume-speewing fire

By PETER PAGE
Staff Writer

FALLS, Pa. — Investigators believe a single spark caused the burst of flame that critically burned a worker at the Rhone-Poulenc plant Monday night but they don't know what caused the spark.

The fire caused the release of a plume of toxic smoke from the burning chemical, phosphorus pentasulfide, that crossed the Delaware River, prompting police and firefighters in Trenton to block streets and consider an evacuation of the neighborhood around Waterfront Park. A shift in the wind that sent the plume of smoke further downriver made the evacuation unnecessary, according to fire officials.

Falls Fire Marshal Ray Forestal said the incident could have been far worse. If water had mixed with the phosphorus pentasulfide it would have created hydrogen sulfide, a potentially lethal gas.

"If the water got loose up there, we would have been releasing a poison gas," Forestal said. He said they still are checking whether any water actually came in contact with the chemicals.

The injured worker, Steven Rule, 30, was wearing a respirator and fire retardant clothing when the fire erupted, Forestal said, but the intense heat seared through the garment.

"There is nothing left of the clothing," Forestal said.

Rule was listed in critical condition last night at Crozer Chester Medical Center in Upland, Pa., according to a hospital spokeswoman.

The plant, located on the bank of the Delaware River and employing 63, produces bulk quantities of phosphoric acids used in motor oil, pharmaceuticals, agricultural chemicals, household cleaners and various other products, said plant manager Dennis Myers.

"Our best guess right now is that this was a flash fire," Myers said.

THE MATERIAL safety data sheet that details the hazards of phosphorus pentasulfide notes the chemical is flammable and ignites easily. Workers are warned to handle the chemical gingerly because a spark will cause ignition, especially when the chemical is in dust form. Rule was cleaning the machine, called a "flaker," when the accident occurred.

"That is one of the suspect items right now because they had a lot of dust," Forestal said. "That machine is cleaned on a regular basis but this was the first time this has happened, so we have to know what caused the fire."

Rhone-Poulenc acquired the Falls chemical plant in 1987 when it purchased Stouffer Chemicals. Forestal said the company has a sound safety record.

"We've had one lost-time accident in 12 years," Myers said. "This is the second."

Firefighters had to haul fire extinguishers to battle the blaze, since water would have caused a toxic reaction. Forestal said the company will be asked to install a hose system connected to a central dry chemical extinguisher so firefighters can reach any part of the plant.
Whitman is taking chances with environmental safety

It has become embarrassingly clear that Gov. Whitman has an irresponsible blind spot when it comes to environmental policy and regulation. In the name of "business-friendly government," Whitman has given the chemical industry a virtual free ride when it comes to how much they should report about the potentially explosive substances they handle.

According to the National Environmental Law Center, New Jersey produces more toxins than any state except Texas. From 1988 to 1992, 857 chemical accidents occurred in the Garden State.

Our most recent deadly chemical accident happened April 21 at Napp Technologies in Lodi, where five people were killed and 40 injured after an immense explosion. Four hundred residents near the plant were evacuated and businesses in the neighborhood had their inventories destroyed. Toxins ran off into the Saddle River. Luckily, a school located one block from the plant was closed to take advantage of an unused snow day.

What does the Napp tragedy have to do with Whitman? Ignoring the pleas of environmentalists, last year Whitman cut 2,000 items from the list of 3,000 potentially hazardous chemicals that private companies had to report to the state Department of Environmental Protection and local emergency officials under the Right to Know Act.

At the time, Whitman said she wanted to do away with regulations that "require a company to list Q-Tips and lipstick ... We went through a process of reducing the number of chemicals listed in order to focus on what is truly hazardous."

Nice sound bite. There's one problem, though: Three of the substances eliminated were the ones that produced the deadly Napp explosion — aluminum powder, sodium hydrosulfite and benzaldehyde. Last year, Napp was required to report 339 substances. Under Whitman's new regulations, they had to report only 64. When firefighters arrived at Napp on April 21, they didn't have a clue what chemicals they were spraying with water. That's potentially deadly.

I'm not saying that Whitman's getting of important hazardous reporting requirements caused the Napp tragedy. I'm not even saying that if she left the regulations alone, this tragedy could definitely have been avoided.

Sure, I think her "business-friendly" environmental approach stinks. But what smells even worse is the pathetic reaction of the governor and her chemical-industry friends to the Napp explosion.

Whitman insisted, "The Lodi explosion had absolutely nothing to do with what was listed or not." What about the three substances that she removed that produced the explosion? Not a word.

What's worse, Whitman put the entire blame for the explosion on the workers at Napp. "What happened there, unfortunately, is that workers in the plant mixed the chemicals incorrectly. They knew they had a problem and failed to notify authorities ..."

How does Whitman know for sure that's what happened? As for any responsibility on the state's part, she said not a word.

And why has she called for a 42 percent reduction in the DEP staff that enforces the Right to Know Law and monitors the chemical industry?

Further, Whitman has chosen to ignore a July 1994 internal memo by a top DEP official proposing the inclusion of more than 120 toxic, flammable and explosive chemicals that "if released in sufficient quantity, could result in death or permanent disability."

C'mon Governor. Stop your lipstick and Q-Tip rhetoric. You know a 42 percent cut in this area is dead wrong. And while your two agencies conduct their review, why not put those 2,000 chemicals you removed back on the list of potentially hazardous substances? They can be removed after they are found to be safe.

I know, your friends at the Chemical Industry Council will say it's unnecessary and that it would be downright "unfriendly to business." But why not try a novel approach with these guys?

For once, just say no.

Steve Adubato Jr. is an instructor of public administration and mass media at Rutgers University, a television commentator and former legislator.
Interview with Governor Whitman

I haven't had a chance to read the entire report, I've looked at the executive summary and I've already pulled out a couple of places there where I've asked or are going to be asking DEP and Labor particularly, as well as Health to take a look at.

Do we have a role here? Is there something that we should do to ensure that they have the proper training? That they continue with follow up? Which seems to be from the indication of the report that's where the problems were. It doesn't appear from anything that we have seen or anything I've seen from reports. Of course, we don't know yet. It will be, I guess, three months before they finish their report and come back to us with the actual cause of the problem.

On initial blush it does not seem to be that it was a lack of knowledge of what chemicals were around. What I heard at the time and in talking to both those who were dealing with the fire and the emergency room doctors who were dealing with the patients was that they knew, they had the names of 50 chemicals that were bad and hazardous and required specific methods of treatment. They just didn't know which of the 50 which was dangerous - the indication of the report that's where the problems were. It didn't appear from anything that we have seen or anything I've seen from reports. Of course, we don't know yet. It will be, I guess, three months before they finish their report and come back to us with the actual cause of the problem.

What is our responsibility? What more can we or should we do to protect workers and the community? I haven't had a chance to sit down and talk about it yet to determine whether we want to pursue it — or whether there's the appropriate way to pursue it.

What I asked the three commissioners to do is to come together to make recommendations and I don't think there should be — if a chemical or something is dangerous — if health determines it's dangerous — than it shouldn't be okay at DEP or Labor. And vice versa.

There should be one set of standards. But one of the problems that we have in this state is we get so many different lists and standards and they're all over the place. It should be consistent. I asked the three of them to take a look at the inconsistencies to determine why they were there, who's list should prevail and to make a recommendation back to me.

They have been reviewing it. They're waiting now, particularly, to see the cause, the final report on that, to see if that has any implications for what they're going to be recommending and then they'll be making their recommendations to me as to what we should do.

Are we fine the way we are? We're not clear because there are different lists and there shouldn't be different lists. If it's unhealthy for one, I think it should be unhealthy on everybody's list.

I haven't had a chance to really look at the report and I haven't read the report. What I'm doing is asking that Labor and Health and DEP make recommendations on. I asked the three commissioners to get together on the right-to-know, this is something that is an extension of that. But I have been pulling out things from that report, from the executive summary. But the executive summary has already led to some of those kinds of questions and that's one of the areas that I particularly circled on the executive report.

What more can we or should we do to protect workers and the community? I haven't had a chance to sit down and talk about it yet to determine whether we want to pursue it — or whether there's the appropriate way to pursue it.

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I haven't had a chance to really look at the (safety review board) idea and will be asking the commissioners to take a look at it. As you know, after the fire, one of the things that I did was ask the commissioner of Labor and commissioner of the Department of Environmental Protection to take a look at our responsibilities in this area, particularly right-to-know. There appears to be, at least the initial findings are that its very bad plant, on site management. And that's a real concern obviously, because we don't like to lose any lives.

I've been up there and it's even more personal for me from that perspective. And I'm going to ask them to take a look at that kind of a suggestion.

We've got to see what we can do to ensure that companies are meeting their legal obligations. And there clearly are some indications here, certainly implied in the report, that NAPP was deficient in training and there were some bad judgments made and some errors in judgment by individuals, it would appear.

I can't say too much because there's going to be a lot of litigation about it. And there comes a point where there's very little that anyone can do or government can do about bad individual decisions and try to handle the problem on your own versus immediately going into the steps or procedures that you know are there in emergencies.

You can only go so far but you certainly can heighten the awareness and the responsibility to ensure that everyone's aware of what their responsibility is.

They're supposed to go through regular drills, regular evacuation proceedings, and emergency drills on how to handle those situations and that's something I've looked at.

LODI EXPLOSION

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EDITORIALS

Of Q-Tips and chemicals

Whitman learns the difference

It's a good thing that crow isn't on the state's list of hazardous substances, because Governor Whitman is eating a heavy helping in the wake of the chemical explosion that killed five workers in Lodi.

Last year, in a display of business friendliness, the Whitman administration cut by two-thirds the list of hazardous substances that companies must report to the state and local emergency personnel. Besides cutting the list from 3,000 to 1,000 items, it raised the reporting thresholds from zero-tolerance to 500 pounds.

Mrs. Whitman had defended the reductions, insisting she wasn't allowing dangerous materials to go unreported, only dropping "the requirement [that] a company list Q-Tips and lipstick."

But as emergency workers attempt to clean up the ruins of Napp Technologies, they have been forced to rely on older disclosure forms as a guide because the woefully inadequate new forms give them only an inkling of what kinds of toxic hazards they're likely dealing with.

In 1993, Napp reported 339 substances. On its most recent list, Napp reported only 64. Among the chemicals dropped from the state's required list were the three that caused last month's explosion — aluminum powder, sodium hydrosulfite, and benzaldehyde.

Maybe Mrs. Whitman can refresh our memory. Are those three chemicals the ingredients for Q-Tips, or lipstick?

The governor now says that she wants the departments of Health, Labor, and Environmental Protection to devise a sensible, uniform list of toxic substances that companies must report.

Sounds good, Mrs. Whitman, so long as this time the list is comprehensive.

What's your opinion on the subject above? We will publish a sampling of reader responses in "Instant Feedback." Please contact us by 5 p.m. Monday, using the e-mail or fax number at the top of the page, or our "Instant Feedback" line, (201) 525-4600, Ext. 2270. Include your name, hometown, and daytime phone number so we can verify your reply.
UNDISCLOSED DANGERS

2,000 chemicals cut from state list

By KELLY RICHMOND and DUNSTAN McNICHOL
Trenton Bureau

Fabricolor Manufacturing Corp. in Paterson told the state two years ago that it used oxalic acid, a potentially deadly poison, in the manufacture of its dyes. But the residents of the apartment building next door don't know whether it still does.

Similarly, New Jersey companies are no longer required to alert local officials when they store sodium hydrosulfite and benzaldehyde — substances that helped cause last year's fatal explosion at Napp Technologies Inc. in Lodi.

In those and thousands of other cases, New Jersey now allows businesses to conceal information once routinely disclosed as part of the New Jersey Worker and Community Right to Know Act. Under Governor Whitman, the state Department of Environmental Protection two years ago deleted more than 2,000 of the 2,900 chemicals once covered by the law.

Harry Miller, who lives next door to Fabricolor, said he noticed that the company's Right to Know report had shrunk dramatically, but he didn't know why. "I think it's pretty outrageous," he said. "It See RIGHT TO KNOW Page A-10

INSIDE: How losing information hurts North Jersey emergency workers. Page A-10
AN EDITORIAL: A diluted Right to Know. Page NJ-14
TOMORROW: A case study of a contaminated Garfield neighborhood.

On the chilly January day in 1994 when she swore her oath of office, Governor Christie Whitman pledged an end to stifling bureaucratic regulations and declared that New Jersey was...

‘OPEN for BUSINESS’
Right to know enforcement statistics

<table>
<thead>
<tr>
<th>Private businesses</th>
<th>Facilities covered by law</th>
<th>State Inspections</th>
<th>Violations</th>
<th>Number fined</th>
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<tr>
<td>Enforced by DEP:</td>
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<td>1,007</td>
<td>410</td>
<td>0</td>
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<tr>
<td>Enforced by Health Dept.:</td>
<td>33,000</td>
<td>282</td>
<td>141</td>
<td>2</td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Public facilities</th>
<th>Facilities covered by law</th>
<th>State Inspections</th>
<th>Violations</th>
<th>Number fined</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enforced by Health Dept.:</td>
<td>10,000</td>
<td>96</td>
<td>77</td>
<td>0</td>
</tr>
</tbody>
</table>


Sources: State Department of Health, State Department of Environmental Protection

"Right to Know is the first line of defense. Without it, neighborhood residents would suffer more fires, explosions, and pollution."

Jane Nogaki, co-chairwoman of the Right to Know and Act Coalition

Delivering what an industry wanted

Bozarth's group supported a bill sponsored in the Assembly in 1992 by Robert Shinn that would have cut the number of chemicals on the Right to Know list but required warning placards on the outside of buildings. The bill failed, but in 1994 Whitman appointed Shinn to head the DEP. Soon afterward, he used his regulatory powers to shorten the list and make other changes without legislative approval. Besides deleting more than two-thirds of the list, Shinn decreed that the more than 800 chemicals that remained had to be reported only if more than 500 pounds was stored. There had been no minimum weight limit for most of the program's existence, until a 100-pound threshold was installed in 1993 as part of a compromise between environmentalists and the DEP under Gov. Jim Florio.

The significance of the higher limit, critics say, is that a 55-gallon drum, the most common means of storing many chemicals, typically weighs less than 500 pounds and would not have to be reported if only one drum was in use.

Whitman, her representatives, and DEP officials all say the change allows the state "to focus on what is truly hazardous," as the governor put it. The program's supporters scoff at that contention.

"Focus? What focus?" Nogaki asked.

State rescinds a right to know
Right to Know doesn't impose any rules on how a chemical is handled or stored, or when or where or how much of it can be used, Nogaki said.

"Right to Know, by its very nature, is simply a reporting program," she said. "It's not a regulatory program; it just conveys information to those who want it and need it."

Right to Know supporters also question how the administration decided which chemicals to remove.

The DEP did not perform any studies to determine which chemicals were dangerous and which should be removed, Gerald P. Nichols, director of the Division of Environmental Safety, Health, and Analytical Programs, acknowledged.

Instead, Nichols said, the state based its revised list on several federal lists of hazardous substances, such as one compiled for the Clean Air Act.

But Bill Wolfe, policy research director of the New Jersey Environmental Federation, and a former DEP staff, said studies should have been conducted to determine which items could safely have come off the list.

"Did they go through 2,000 chemicals and make that determination? No, they did not," Wolfe said.

### Budgets cut along with regulations

Removing two-thirds of the chemicals on the Right to Know list and imposing a 500-pound threshold on the remaining was only the first step in the administration's drive to scale back the program.

Funding and staff levels also were cut sharply at both the Health and Environmental Protection departments.

The combined Right to Know budgets were pared from about $2.4 million to $1.3 million, while the staff was reduced by about one-third, from 44 employees to 31. The remaining DEP employees assigned to Right to Know, like most department staffers, had their workweeks cut from 40 to 35 hours.

In addition, Right to Know and a similar program, the Toxic Catastrophe Protection Act bureau, were combined into a single office. The bureau, which enforces a state law that applies only to about 110 companies dealing with the most deadly substances, saw its budget fall from $1.3 million to $1.1 million and its staff from 17 to 12.

DEP officials say new computer users allow the department to do with fewer hands. But J. P. Fannin, safety officer for Hawthorne and a 30-year member of its volunteer fire department, charged that the budget cuts and resulting staff cuts are slowing responses to non-emergency incidents.

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## A dangerous dozen

Governor Whitman has said that the Right to Know list was cut from about 3,000 chemicals to about 800 in order to delete such things as "Q-tips and lipstick" and allow the state to focus on the most dangerous chemicals. Here is a sampler of chemicals that the administration removed from the list:

<table>
<thead>
<tr>
<th>Chemical</th>
<th>Removed Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sodium persulfate</td>
<td>Removes it from state list; not a cancer risk.</td>
</tr>
<tr>
<td>Ammonium persulfate</td>
<td>Removes it from state list; not a cancer risk.</td>
</tr>
<tr>
<td>Sodium hydrosulfite</td>
<td>Removes it from state list; not a cancer risk.</td>
</tr>
<tr>
<td>Benzaldehyde</td>
<td>Removes it from state list; not a cancer risk.</td>
</tr>
<tr>
<td>Tetrahydrofuran</td>
<td>Removes it from state list; not a cancer risk.</td>
</tr>
<tr>
<td>Sodium bisulfite</td>
<td>Removes it from state list; not a cancer risk.</td>
</tr>
<tr>
<td>Oxalic acid</td>
<td>Removes it from state list; not a cancer risk.</td>
</tr>
<tr>
<td>Magnesium</td>
<td>Removes it from state list; not a cancer risk.</td>
</tr>
<tr>
<td>Uranium</td>
<td>Removes it from state list; not a cancer risk.</td>
</tr>
<tr>
<td>Chloramphenicol</td>
<td>Removes it from state list; not a cancer risk.</td>
</tr>
<tr>
<td>Procarbazine hydrochloride</td>
<td>Removes it from state list; not a cancer risk.</td>
</tr>
<tr>
<td>Reserpine</td>
<td>Removes it from state list; not a cancer risk.</td>
</tr>
</tbody>
</table>

In a fire, it emits toxic fumes and helps other materials to burn faster and spread further. It was one of two chemicals that caused a March 1995 warehouse fire in Hackensack that drove 100 nearby residents from their homes and sent two dozen firefighters to the hospital.

It irritates skin, eyes, nose, throat, and lungs and can cause an allergy-like reaction resulting in life-threatening shock. Also, it causes materials like wood, paper, and oil to ignite. Emits dangerous fumes.

In a fire, it can emit toxic fumes. It was among the chemicals that caused an April 1995 explosion at Napp Technologies in Lodi. The blast killed five workers and required the evacuation of 400 nearby residents.

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Disclosure cut on 2,000 poisons

Continued from previous page

"You used to call and you'd get an answer right away. Now it takes awhile," he said. "They're short-handed."

Critics say Whitman's cuts have further hampered a Right to Know program that state statistics show has never boasted a strong enforcement record.

The two departments that enforce Right to Know have six inspectors combined to cover 33,000 companies and 10,000 public facilities. That's one fewer inspector than they had before Whitman's budget cuts.

Only 87 facilities have been inspected by both the DEP and the Health Department within the past three years. Fabricolor, for example, has never had a Right to Know inspection by either the DEP or the Health Department.

Other large companies that deal with dangerous chemicals—including Du Pont's Chambers Works, Sandoz Pharmaceuticals Corp., and Schering-Plough Corp.—have had Right to Know inspections by Health but not by the DEP.

When inspectors do turn up violations, chances are that not much will happen.

Health inspections in 1994 found that 80 percent of public facilities and 50 percent of the private sector violated the law. But from July 1991 to October 1995, a total of two companies were fined $2,500 each. One penalty was dropped and the other was reduced to $500.

DEP is equally obliging. In 1995, it found 410 violations during 1,007 inspections. Nicholls said no fines were issued.

"We don't impose fines," said Elin Gursky, the Health Department's senior assistant commissioner. "What we do is work with the facility to bring them into compliance and we're very happy to say that they always do."

In addition to violations turned up during inspections, about 4,000 companies that were supposed to file Right to Know reports in 1995 failed to do so.

There were 278 fines issued for failing to report in fiscal year 1995, which includes the second half of 1994 and the first half of 1995.

**Expected benefit never came about**

The rationale behind Whitman's budget cuts was that fewer companies would be covered by the shorter Right to Know list, generating less paperwork and requiring less oversight. But the decline never materialized, because companies tend to use many chemicals and they still must report those remaining on the list. As a result, most companies are still filing but disclosing fewer chemicals.

After the list was shortened, the number of chemicals reported by Napp Technologies declined from 339 to 84, and Fabricolor's...
list dropped from 327 items to 74.

Nicholls said the shorter reports allow emergency workers to zero in on the most dangerous substances when a problem occurs.

"Firefighters told us it doesn’t do any good to get to a fire and be handed a computer list an inch thick," Nicholls said.

But Richard Johnson, Hackensack’s fire chief, said his department punches the Right to Know reports filed by area companies into its computer. The relevant information is then available by radio to firefighters on the scene.

"The more information we have, the better," Johnson said.

At the Napp factory explosion, medical personnel chose to consult an older Right to Know report because it was more complete. None of Right to Know’s supporters has claimed that the Napp incident was caused by the cuts in the list, only that it shows the real-life need for complete information.

Fannin, Hawthorne’s safety officer and volunteer firefighter, said he remembers fighting a blaze 20 years ago on the south end of town, unaware that the building stored chemicals that react with water.

“We went in and hit it with the water and [the resulting explosion] sent barrels 70 feet up in the air," he said. "They just exploded all over the place, because we didn’t know what we had or what to do with it.”

In that case, he said, they were “lucky beyond belief” and no one was hurt. “The whole thing could have gone off in our faces," he said.
A moratorium on facts that help emergency workers

Right to know fact sheets

Under the 1983 New Jersey Worker and Community Right to Know Act, the state Health Department is required to prepare Hazardous Substance Fact Sheets, which explain in simple language why a particular chemical is dangerous and what precautions should be taken when working with it.

ENGLISH

Number required by law: about 2,500
Number written by previous administrations: 1,045
Number written by Whitman administration: 7
Number administration plans to write in future: 0

SPANISH

Number required by law: about 2,500
Number written by previous administrations: 235
Number written by Whitman administration: 0
Number administration plans to write in future: 0

By KELLY RICHMOND and DUNSTAN McNICHOL
Trenton Bureau

J. P. Fannin, the municipal safety officer in Hawthorne, had a mystery on his hands.

Police officers and other emergency personnel came to him a few years ago complaining of a burning sensation in their eyes and noses when they laid out flares at accident scenes. But there was nothing on the flares' packaging or in materials published by the chemical industry to indicate a health risk.

Then he checked the Hazardous Substance Fact Sheets prepared by the state under the New Jersey Worker and Community Right to Know Act. The sheets told him that the chemicals in the flares—strontium nitrate, potassium perchlorate, and sulfur—produced poisonous gases when burned.

Fannin ordered that the flares be used only downwind, and that other types of traffic barriers be substituted, if necessary. "We haven't had any incidents since," he said. "The fact sheets made a big difference."

But budget cuts have forced the Department of Health to drastically scale back its fact-sheet service, defying state law in the process. Governor Whitman last year cut the department's funding for Right to Know by 35 percent, from $2 million to $1.3 million, and its staff from 25 people to 18.

As a result, the state in July 1995 abandoned its effort to write new fact sheets, and stopped updating half of those already on hand.

The Right to Know law signed in 1983 by Gov. Thomas H. Kean requires the Health Department to prepare, update, and distribute fact sheets for about 2,500 chemicals. About 1,045 of the sheets were completed under Kean and his successor, Gov. Jim Florio.

But the Health Department under Whitman doesn't plan to write any new fact sheets, said Blin Gorsky, senior assistant health commissioner.

Further, it plans to keep only about 500 of the existing ones up to date, said Rita Manno, a Health Department spokeswoman. The others will be updated only if "significant" new information comes to the department's attention, she said.

Among the chemicals covered by the law for which no fact sheet is available are uranium, which is highly radioactive and known to cause cancer, and sodium persulfate, which helped to cause a warehouse fire in Hackensack last year that sent 26 firefighters to the hospital.

The state also is legally required to prepare the fact sheets in Spanish. Only 240 had been translated under earlier administrations, and the Health Department has now stopped translating them altogether.

Union officials say Spanish is the primary language for many chemical industry workers, including a number of those at the 1995 Napp factory explosion in Lodi.

The Health Department hopes to find a volunteer group to translate the fact sheets into Spanish, said spokeswoman Marilyn Riley.

A fact sheet offers clearly written information about possible health effects caused by a particular chemical and provides instructions on working with it safely. Union officials, environmentalists, and other supporters of the Right to Know law say the sheets are more complete, comprehensive, and unbiased than similar material prepared by the chemical industry.

"Knowledge is power," said Jane Nogaki, co-chairwoman of the Right to Know and Act Coalition. "When people don't understand the true nature of the substances they're exposed to, they can be sick and not even know why."

Gorsky defended the decision to stop writing new fact sheets. The 500 sheets that will be maintained are the ones most frequently requested, she said, and the department can update the others upon request within a few days or weeks.

But Rick Engler, program director of the New Jersey Industrial Union Council, said it took more than eight months last year to update the fact sheet on fiberglass. "They're not going to take life-or-death chemical information and zip it out in a few weeks," he said.

By MARCIA MARX

This week

The primary target in Governor Whitman's effort to make New Jersey "Open for Business" has been the Department of Environmental Protection. Two and a half years of deep budget cuts and quiet rule changes have hampered its effectiveness.

Today

Thousands of chemicals were removed from the list of those that must be reported when stored and used by industry. Substances that are potentially fatal are among those removed, and enforcement of the rules is uneven.

Wednesday

A Garfield neighborhood contaminated by dangerous chromi um compounds faces the impact of environmental budget cuts on North Jersey residents. Routine inspections, cleanup efforts, and emergency responses all have been hampered.

In future weeks

Whitman's emphasis on forging a cooperative relationship with industry has created avenues that made it easier for the politically connected to obtain favorable treatment from state regulators.

The governor's pro-business policies have not produced the job gains that she promised. Meanwhile, the administration has made some policy changes aimed at the needs of companies rather than their employees.
Whitman assailed on chemical perils

By KELLY RICHMOND

TRENTON - Governor Whitman has systematically weakened a state law that gives workers and the public information about chemicals used by industry, a coalition of environmentalists, firefighters, and union officials said Wednesday.

"The governor started down a course that can cause a great deal of harm to New Jersey citizens," said Jane Nogaki of the New Jersey Right to Know and Act Coalition. "During this election-year period, we'll give her a chance to change."

Many of the coalition's complaints echo the findings of The Record's "Open for Business" series, which was published last summer.

Whitman denied doing anything that had diminished public safety.

Under the state right-to-know law, companies must file reports disclosing their use of certain chemicals. That information is passed on to local emergency personnel and is available to the public. Employers also must provide safety training and label all containers, and the state is required to provide fact sheets with safety information about chemicals covered by the law.

The coalition also asked the governor to ensure that welfare recipients put to work byist for the Chemical Industry Council. "This is a flawed program. It does not communicate hazards to any employee in an effective manner."

Following the fatal Napp explosion, Whitman said her administration would prepare a report on whether the list of chemicals should be restored.

Whitman said in a recent interview that she has pushed her staff to deliver, but was told that a federal report was needed.

A Napp study by the U.S. Occupational Safety and Health Administration and the Environmental Protection Agency is due soon. The cause of the explosion has been explained in several state and federal reports, but the new study is to explore the underlying "root cause" that led up to the accident.

Assemblyman Charles "Ken" Zisa, D-Hackensack, dismissed Whitman's explanation.

"That's just another excuse for the governor to delay implementing environmental protections," Zisa said.

Safety law weakened, groups say

of chemicals covered by the law from 2,900 to about 900. She also has cut the program's budget by about one-fourth and its staff by about one-third.

Nearly two years after five people were killed at Napp Technologies Inc. in Lodi by an explosion involving two chemicals that were removed from the list, the administration still has not produced a promised study of the right-to-know law.

Whitman says a federal report must be completed before the state can begin its study, a stance derided by critics who say there is more than enough information for the state to proceed.

At a press conference, the Right to Know and Act Coalition - which includes the New Jersey Environmental Federation, the AFL-CIO's Industrial Union Council, and about 30 other groups - called on Whitman to restore all the original chemicals to the list and reverse the program's funding cuts.

The coalition also asked the governor to be covered by a training provision of the right-to-know law.

In a written response, Whitman praised the right-to-know law and said she supports its intent. She did not respond to any of the coalition's specific recommendations, saying only that she will consider them.

"I strongly believe the public is afforded a great deal of protection under the current statute and the regulations," she said.

The state Department of Environmental Protection said in a statement that it had merely streamlined the list of chemicals to focus on the most dangerous and eliminate "non-hazardous substances that did not belong on the list." The Record has reported that substances capable of causing cancer, genetic mutations, and death were among those deleted from the list.

A spokesman for the chemical industry said that the coalition's objections are unfounded.

"I didn't think what the administration did to the right-to-know program weak-
Whitman disavows regulation changes

Aide: Florio cut list of toxic chemicals

By DUNSTAN McNICHOL
Trenton Bureau

Attacked by her Democratic opponent for “decimating” the state’s Right to Know law, Governor Whitman on Thursday claimed that former Gov. Jim Florio actually enacted the controversial changes — even though for years she has proudly taken credit for them.

At issue is the state’s decision in 1994 to pare by two-thirds, from 3,000 to about 800, the list of hazardous chemicals that companies must report using or storing under the state’s 1983 Right to Know law.

The dispute took center stage Thursday in the gubernatorial race. It began with a statement by Whitman’s challenger, Jim McGreevey, at a campaign stop in Hackensack.

“Governor Whitman systematically dismantled the Right to Know law and now firefighters, workers, and neighboring residents are less prepared in emergency situations,” he said.

Whitman’s campaign staff quickly countered that McGreevey was blaming the wrong governor.

“’The change in the number of chemicals covered by the Right to
See LIST Page A-5"
LIST: Whitman denies changing law

From Page A1

Know Act occurred during the term of Gov. Jim Florio, not Christine Whitman,” Whitman’s campaign manager, Tom Wilson, said in a sharp statement.

But that’s a departure from Whitman’s first three years in office, when she frequently took credit for the changes as evidence that she was streamlining government regulations to create jobs.

In fact, the current regulations were adopted under Whitman in July 1994, when the state specifically declined to keep the 2,200 chemicals listed as hazardous by the U.S. Department of Transportation on the Right to Know list, records show.

“The department has determined that the U.S. DOT list does not need to be included,” the state Department of Environmental Protection said in the July 18, 1994, New Jersey Register. “The department is attempting to balance the need for information against the costs to industry of reporting within the framework of the Worker and Community Right to Know Act.”

Earlier, in April 1993, the Florio administration had proposed dropping the 2,200 chemicals from the list as part of a broader revision of the program. But Florio had a change of heart in January 1994 before he left office, reported the New Jersey Register, the state’s official rule-making publication.

The McGreevey campaign accused Whitman of running from her own record.

“This has become the election of Christie Whitman, who is scurrying to cover up her record for the last four years because she’s on the spot with voters,” said Richard McGrath, McGreevey’s spokesman.

Pete McDonough, a spokesman for the Whitman campaign, said the governor isn’t “taking or avoiding any credit.”

“What we have today is a guy running for governor who just took aim at the wrong target,” he said.

On numerous occasions in the past, the Whitman administration has taken credit for cutting the number of chemicals that need to be reported.

The Right to Know changes were listed first among the administration’s accomplishments in a 1994 report, Strategy to Achieve Regulatory Reform, that was ordered by Whitman to reduce red tape.

She also highlighted them as a “significant accomplishment” in the DEP’s 1994 and 1995 annual reports. DEP Commissioner Robert C. Shinn Jr. issued a press release touting the changes in 1994, and Whitman herself defended them in a speech to students at the DEP in 1995.

More recently, however, the decision to cut the reporting list so drastically has come under fire.

Three of the deleted chemicals were cited as the cause of a 1995 Lodl chemical plant explosion that killed five workers, and The Record last year in a series on Whitman’s pro-business policies reported that many of the materials struck from the list can cause cancer or other health problems.

Until 1994, the 33,000 firms covered by the state’s Right to Know law based their annual reports to the state on a disclosure list that included more than 3,000 chemicals.

The Florio administration revamped that list in 1993, and proposed dropping the 2,200 chemicals in April of that year.

But in January 1994, acting DEP Commissioner Jeanne Fox said the state had decided the 2,200 chemicals should still be monitored because “many chemicals . . . may pose a threat to first responders in emergency situations and may pose health and safety risks to the community.”

The Florio administration accordingly sought to reinstate the 2,200 chemicals in April, but could not do so immediately for technical legal reasons.

Instead, Fox adopted portions of the revisions but “deferred action” on the sections of the proposal that altered the reporting list. Simultaneously, she proposed new regulations to formally place the 2,200 substances on a revised Right to Know list.

But when the Whitman administration adopted the new regulations the following July, it declined to include the materials.

Whitman officials said Thursday that the fact that there was a period when the 1993 changes had been adopted and the 1994 proposals were still pending means it was Florio, not Whitman, who stripped down the list.

Staff Writer Hugh Morley contributed to this article.
Group criticizes Whitman on toxics

By TRACEY L. REGAN
Staff Writer

TRENTON — A coalition of labor, environmental, firefighter and public health organizations yesterday praised the Whitman administration for improving its public outreach on the New Jersey Worker and Community Right to Know Act, but criticized policy-makers for failing to require sufficient reporting of toxic chemicals.

"In 1997, we've made some progress, but there have been problems," said Jane Nogaki, co-chairwoman of the New Jersey Right to Know & Act Coalition.

As signs of progress, right-to-know advocates pointed to the administration's commitment to distribute fact sheets on 2,500 hazardous substances, to issue public service advertisements on the law and to improve enforcement of chemical labeling, among other initiatives.

But the coalition also criticized the Whitman administration for not supporting clearer identification of chemical hazards for firefighters, for failing to collect fines from companies that ignored the law and for not expanding the inventory of reported chemicals.

In early January 1994, the state removed 2,000 of 2,900 chemicals from the list of those reported, requiring their presence be disclosed only in cases in which they were used in large quantities.

THIS TIME last year, the coalition sent a letter to Whitman urging her to restore the deleted chemicals to the list and to require their reporting at much lower thresholds, among other recommendations. Two of those chemicals, the group said, were involved in the 1995 chemical explosion at Napp Technologies in Lodi.

The coalition has for some time expressed concern about funding for the right-to-know programs operated by the state Department of Environmental Protection and the Department of Health and Senior Services. The coalition said yesterday that adequate funding for those budgets was not assured beyond July of this year.

New Jersey's 15-year-old Right to Know law, which requires employers to label hazardous chemicals, report their use and provide information on them to employees, expires in June 1999. The DEP will begin reviewing the law this year, taking into consideration suggested revisions, said Loretta O'Donnell, a DEP spokeswoman. "Which (chemicals) might be included on the list is part of the discussion," O'Donnell said.

Coalition members suggested that incidents such as the Napp Technologies explosion and the as-yet-unexplained rise in cancer rates in Toms River made the governor more receptive to their recommendations than she was in previous years.

"Several incidents caught her up short," Nogaki said.

The group also noted with some triumph yesterday that the federal government recently funded an independent chemical safety board modeled on the National Transportation Safety Board. Created in 1990, the board received its first funds this past October.
LOCAL NEWS

Chemical-reporting changes win praise

By DUNSTAN McNICHOL

TRENTON — Environmentalists and union leaders on Friday praised Governor Whitman for reversing course and bolstering some provisions of the state law that require firms to publicize hazardous materials they use or store.

But they also promised to keep up the pressure on Whitman to repeal her 1994 decision that eliminated reporting requirements under the so-called Right to Know law for 2,000 chemicals, including chemicals responsible for the fatal Napp Technologies explosion in Lodi three years ago.

"In 1994, we removed two-thirds of the chemicals that companies are required to report under the Right to Know law, and said those reports only had to be filed on the remaining materials if companies kept more than 500 pounds on hand. She also cut funding and staff levels for the program," said Rick Engler, director of the New Jersey Work Environment Council, and a leading critic of the 1994 changes to the chemical reporting requirements.

"I would hope the lessons of Napp Chemical would indicate we should have the strongest possible protections," Engler said.

Whitman in 1994 removed two-thirds of the chemicals that companies are required to report using or storing under the Right to Know law, and said reports only had to be filed on the remaining materials if companies kept more than 500 pounds on hand. She also cut funding and staff levels for the program.

At the time, she insisted the materials removed from the reporting requirements were benign items like "Q-Tips and lipstick," and she cited the action as a key accomplishment of her drive to streamline state regulations and make New Jersey "Open for Business."

But in a 1996 series on the "Open for Business" initiatives, The Record reported that many of the chemicals removed from the list can cause death, cancer, or other serious health problems.

In addition, The Record series showed that Whitman had suspended creation of Right to Know fact sheets designed to inform workers and community residents of the hazards of 2,500 particular chemicals.

Last year, under pressure from environmental and labor groups, Whitman added $1.4 million to the state budget for the Right to Know program and bolstered its staff by 14 people to speed creation of the fact sheets.

In addition, the administration next week is scheduled to launch a public service advertising campaign to publicize the Right to Know program and the available fact sheets.

And Whitman last year convened four meetings of business, environmental, and labor groups to consider restoring some of the chemicals removed from the list in 1994.

The 1994 changes are scheduled to expire next year, and state officials this year plan to determine whether some of the chemicals removed from the reporting list should be restored.

"We're not interested in having the biggest list, the longest list; we want the best list," she said.

"There are ongoing discussions," Hal Bozarth, lobbyist for the New Jersey Chemical Industry Council, said his members are pushing for a "complete overhaul" of the Right to Know law next year, including a change that would reduce labeling requirements for chemical plants.

Bozarth said he thinks the state is considering restoring about 200 chemicals to the Right to Know list, and added: "We're not adverse to adding substances that clearly have fallen through the cracks one way or another."

Jane Nogaki, co-chairwoman of the Right to Know and Act Coalition, the group that coordinated Friday's press conference on the issue, said she is optimistic that Napp and other episodes have made Whitman sensitive to the need to expand the pared-down reporting list.

"The need for chemical disclosure continues, and I believe the governor has responded," said Nogaki. "There have been several accidents that caught her short."

Better grades for Whitman

Environmentalists and labor groups are giving the Whitman administration improving grades for informing citizens and workers about hazardous chemicals used by New Jersey's industries.

The New Jersey Right to Know Coalition and New Jersey Work Environmental Council last week said that while the governor's record has improved, there are still areas she needs to improve upon.

A report prepared by the groups found improvements in the way the Department of Health and Senior Services maintains workplace hazardous substance fact sheets. Whitman and the Legislature allocated $1.4 million in new funds for this program.

The Department of Environmental Protection and the Health Department have produced TV and radio public service ads to promote citizen awareness of chemical notification laws, the report stated.

However, the groups were concerned the DEP has not restored more comprehensive employer reporting rules so that "workers and the public could learn more fully," about chemical hazards.
Toxics right-to-know list staying as is

By Tom Johnson
STAR-LEDGER STAFF

In a rebuff to labor and environmentalists, the Whitman administration has rejected a plan to broaden a New Jersey law that requires manufacturers to report on the use of toxic chemicals in the workplace.

Earlier this year, a coalition had petitioned the state Department of Environmental Protection to restore more than 2,000 toxic chemicals that had been dropped from a state-mandated reporting list by the administration at the start of Gov. Christie Whitman's first term.

But last week, the state agency denied the petition, saying that adding the chemicals, which the DEP argued do not pose a threat to public health and safety, would only be burdensome for the manufacturers.

The decision did not surprise the New Jersey Right to Know Coalition, which spent the better part of Whitman's first term warring with the Governor over her efforts to streamline the right-to-know program. The 1983 law requires industry to inform workers and the public about hazardous substances used by businesses.

"They looked at this issue very narrowly," said Jane Nogaki, co-chair of the coalition. "They're only looking at pollutants they think can harm the public. It is not their intention to protect workers and firefighters."

The coalition's request would have imposed the same requirements on private industry that the state Department of Health requires of the public sector, such as schools and libraries. The health agency has more than 2,500 chemicals on its reporting list. The DEP list, dealing with the private sector, contains fewer than 1,000 chemicals.

"They are wrong for very fundamental reasons," argued Rick Engler, director of the New Jersey Work Environment Council. "These substances are hazardous."

But Peter Page, a spokesman for the DEP, defended the decision; saying the chemicals do not pose a threat to workers or the community. "We believe it would have clogged the reporting system with a lot of useless information that would make the program inefficient," he said.

The dispute has become more rancorous after an explosion ripped through the Napp Chemical plant in Lodi, killing five workers in April 1995. Three of the chemical involved in the explosion had been dropped from the reporting list the previous year.
May 29, 1998

**DEP Rejects Petition to Expand Right to Know Chemical List**—State Environmental Commissioner Bob Shinn has dismissed an effort of the New Jersey Right to Know Coalition to restore over 2,000 chemicals to the State-mandated, right to know reporting list. In denying the petition, the Department of Environmental Protection (DEP) ruled that these chemicals are not a threat to public health or safety. The DEP also noted that committing the resources necessary to keep track of all these chemicals containing no public health threat would place a huge burden on New Jersey manufacturers and glut the reporting system with useless information. NJBIA supports this decision.

There is an ongoing process to revise the existing right to know list and NJBIA has been working with the Governor’s Office of Policy and Planning to address legitimate worker and community safety concerns. In response to the concerns of New Jersey firefighters, NJBIA has discussed the possible expansion of the right to know list to include a number of highly flammable and explosive chemicals.

We also want to change the labeling system so that it helps emergency responders and firefighters identify and locate hazardous substances immediately. The Right to Know Coalition is opposed to these meaningful changes. They just want to expand the list, increase reporting and impose greater burdens on employers.

There is an opportunity to transform this counterproductive recordkeeping exercise into a program that actually improves community and workplace safety. Please relay your experiences with the right to know program and suggestions for change to Jim Sinclair at 609-393-7707, ext. 236, or e-mail him at jsinclair@njbia.org.
Right to Know Law:  
It's Time for Change

On March 24, 1998, the N.J. Department of Environmental Protection (DEP) received a petition for rulemaking from the New Jersey Right to Know Coalition on behalf of labor, environmental, community, emergency response and public health organizations in New Jersey. This petition concerned the Community Right to Know chemical inventory reporting requirements and public access to Material Safety Data Sheets. You may remember that this is the same group that had promoted the HELP (Hazard Elimination through Local Participation) legislation. It appears that this is one more back door attempt to bolster union organizing activities by utilizing environmental regulations as a cover.

To the credit of Governor Whitman and Environmental Commissioner Bob Shinn, the DEP reviewed the coalition's petition and denied it. You can read the details in the May 18, 1998, New Jersey Register. In their petition, the coalition requested that the DEP take appropriate rulemaking action amending Community Right to Know regulations to:

Ensure that all chemicals listed on the N.J. Health Department's Right to Know Hazardous Substances list also appear on the DEP's Environmental Hazardous Substances list; restore the reporting threshold to zero; and require facilities to annually provide copies (or electronic transmission) of Safety Data Sheets to local libraries.

The DEP denied the petition for a number of reasons. First, the petition presented no new information that would cause the DEP to reconsider its rationale for adopting the current rules. Second, information on the DEP's list regarding these substances is made available to emergency responders and to the public to increase awareness of chemicals in the community. Third, the Hazardous Substances list maintained by the Health Department for public sector employee health and safety includes substances that may be harmful as a result of routine occupational exposures. Those same substances have not been determined to pose a threat to the public's health and safety should they be accidentally released into a community.

This administration has attempted to streamline reporting to make the data collected more meaningful and timely. The DEP's position is that the expansion of the Hazardous Substances list to include substances that do not pose a threat to public health and safety would make reporting and data management overly burdensome.

NJBIA has been collaborating with the Governor's Office of Policy and Planning on a task force to revise the existing Right to Know regulations. To address some legitimate concerns of New Jersey firefighters, we have discussed the possible expansion of the Right to Know list to include a number of highly flammable and explosive chemicals. We are also attempting to work with the firefighters to determine reasonable reporting threshold quantities. It is clear that the existing labeling system does not provide any assistance to emergency responders. Changing the labeling system would require a change in the legislation.

The existing New Jersey Right to Know law adds unnecessary expense to the already burdensome federal reporting requirements without providing any public health and safety benefits. It is a system that no one uses. It has not helped any emergency responder. The original law was pushed through the legislative process during the early 1980s because the more radical union and environmental groups wielded considerable political clout at that time.

We have over 15 years of experience in attempting to comply with this act. We now know what does and does not work. There is a chance to change this law. NJBIA members need to communicate with state legislators about their experience with this program. If enough businesspeople tell their stories, we can obtain a legislative correction to this program. We would like to see the development of a Right to Know program that actually helps emergency responders in their important task of saving lives and property in the event of an accident.
Plan to skip toxin reports scrapped as unfeasible

By Anthony S. Twyman

The Whitman administration has backed off a proposal that would have allowed 80 companies that use toxic chemicals in their manufacturing to skip submitting pollution prevention plans to the state.

The state Department of Environmental Protection dropped the idea this week after deciding it would not provide the hoped for incentive to get companies to reduce their use of toxins.

Environmentalists and workers' rights advocates, who had worked for months to get the DEP to scrap the proposal, hailed the decision.

"This is a victory for New Jersey residents," said Jasmine Vasavada, toxics coordinator for the New Jersey Public Interest Research Group.

The proposal would have exempted companies that use less than 1 million pounds of a toxic chemical and create less than 500 pounds of waste annually from having to provide plans showing how they intend to reduce their use of toxins.

Currently, the state's Pollution Prevention Act requires companies that use more than 10,000 pounds of a toxin each year to submit pollution prevention plans. The plans outline every step a chemical takes on its route through a company and are far more detailed than what is required under federal law.

The DEP had originally thought its proposal would provide companies with an incentive to reduce their use of toxins by reducing the paperwork they had to file. But on further review, the agency found that the companies would still have had to report much of the same information under the state's Right to Know Law. That law is designed to make sure that people who work in factories or live near them can learn what hazardous substances are being used.

"It turns out that at least some of the reporting they have to do for the Pollution Prevention Act is on the Right to Know form," Peter Page, a DEP spokesman said. He said the department had no intention of weakening the reporting requirements of that law.