



State of New Jersey
Department of Environmental Protection and Energy
Office of the Commissioner
CN 402
Trenton, NJ 08625-0402

Jeanne M. Fox
Acting Commissioner

**IN THE MATTER OF CERTAIN AMENDMENTS
TO THE ADOPTED AND APPROVED SOLID
WASTE MANAGEMENT PLAN OF THE
ATLANTIC COUNTY SOLID WASTE
MANAGEMENT DISTRICT**

**CERTIFICATION
OF THE MAY 13, 1993
AMENDMENT TO THE ATLANTIC COUNTY
DISTRICT SOLID WASTE MANAGEMENT PLAN**

BY ORDER OF THE ACTING COMMISSIONER:

A. Introduction

The New Jersey Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.) established a comprehensive system for the management of solid waste in New Jersey. The Act designated all twenty-one (21) of the state's counties, and the Hackensack Meadowlands District, as Solid Waste Management Districts, and mandated that the Boards of Chosen Freeholders and the Hackensack Meadowlands Development Commission develop comprehensive plans for waste management in their respective districts. On June 24, 1982, the Department of Environmental Protection approved, with modifications, the Atlantic County District Solid Waste Management Plan (County Plan).

The Act requires that all district plans be based on and accompanied by a report detailing the existing waste disposal situation in the district, and a plan which includes the strategy to be followed by the district in meeting the solid waste management needs of the district for a ten-year planning period. The report must detail the current and projected waste generation for the district, inventory and appraise all facilities in the district, and analyze the waste collection and transportation systems which serve the district. The disposal strategy must include the maximum practicable use of resource recovery techniques. In addition to this strategy, the plan must designate sufficient available suitable sites for the disposal of the district's waste for a ten-year period, which sites may be in the district or, if none are available, in another district. (The Act provides procedures for reaching any necessary interdistrict agreements.)

The Act further provides that a district may review its County Plan at any time and, if found inadequate, a new County Plan must be adopted. The Atlantic County Board of Chosen Freeholders (County Freeholders) completed such a review and on May 13, 1993, adopted an amendment to its approved County Plan. The amendment proposed County Plan inclusion of the Atlantic County/Somerset County Interdistrict Agreement of January 19, 1993, associated waste flows and a traffic routing plan.

The amendment was received by the Department of Environmental Protection and Energy (Department or DEPE) on June 1, 1993, and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed this amendment and has determined that the amendment adopted by the County Freeholders on May 13, 1993 is approved with modification as provided in N.J.S.A. 13:1E-24.

B. Findings and Conclusions with Respect to the Atlantic County District Solid Waste Management Plan Amendment

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the May 13, 1993 amendment to the County Plan according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan and I find and conclude that this plan amendment is consistent, as modified, with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders are notified of the issue of concern relative to the May 13, 1993 amendment which is included in Section B.2. below.

In conjunction with the review of the amendment, the Department circulated copies to sixteen administrative review agencies and solicited their review and comment. Pursuant to N.J.S.A. 13:1E-24a(2) and (3), these agencies included various bureaus, divisions, and agencies within the Department. These agencies are the following:

- Office of Air Quality Management, DEPE
- Land Use Regulation Element, DEPE
- Wastewater Facilities Regulation Element, DEPE
- Division of Parks and Forestry, DEPE
- Division of Fish, Game and Wildlife, DEPE
- Division of Solid Waste Management, DEPE
- Green Acres Program, DEPE
- Pinelands Commission
- New Jersey Turnpike Authority
- New Jersey Advisory Council on Solid Waste Management
- Department of Agriculture
- Department of Health
- Department of Transportation
- Department of Community Affairs
- Department of the Public Advocate
- U.S. Environmental Protection Agency

1. Agency Participation in the Review of the May 13, 1993 Amendment

The following agencies did not object to the proposed plan amendment:

Office of Air Quality Management, DEPE
Wastewater Facilities Regulation Element, DEPE
Division of Parks and Forestry, DEPE
Green Acres Program, DEPE
Pinelands Commission
New Jersey Turnpike Authority
Department of Agriculture

The following agencies did not respond to the Department's requests for comments:

Division of Fish, Game and Wildlife, DEPE
Land Use Regulation Element, DEPE
Groundwater Quality Management Element, DEPE
New Jersey Advisory Council on Solid Waste Management
Department of Health
Department of Transportation
Department of Community Affairs
Department of the Public Advocate
U.S. Environmental Protection Agency

The following agency submitted substantive comments which are further addressed below:

Division of Solid Waste Management, DEPE

2. Issue of Concern Relative to the May 13, 1993 Amendment

Issue: **Emergency Redirection of Solid Waste Flow Requirements**

On January 19, 1993, the Atlantic County Utilities Authority and Somerset County signed an Interdistrict Agreement whereby Somerset County agreed to deliver between 30,000 and 60,000 tons annually of waste types 13 and 27 to the Atlantic County Limited Use Landfill for disposal. Somerset County, which lacks an in-county disposal facility, was exporting about 65% of its solid waste to out-of-state landfills. Therefore, through the Interdistrict Agreement, the DEPE is attaining its goal of self-sufficiency in solid waste by decreasing Somerset County's reliance on out-of-state disposal. For Atlantic County, the Atlantic County Limited Use Landfill was in need of additional waste flow to fulfill its debt obligations and to avoid financial hardship to Atlantic County. To expedite the commencement of the delivery of waste to the Atlantic County Limited Use Landfill, the Commissioner of the DEPE issued on February 3, 1993 an Emergency Redirection of Solid Waste Flow. Within the order, the counties were directed to amend their respective county plans within 60 days of the issuance of the order to reflect the change in waste flow. The May 13, 1993 amendment fulfills this requirement for the County. Upon certification of this amendment, the DEPE will initiate formal rulemaking procedures pursuant to N.J.A.C. 7:26-6.6 to embody the waste flow within N.J.A.C. 7:26-5(a).

Issue: Term of the Atlantic/Somerset Interdistrict Agreement

The term of the January 19, 1993 Interdistrict Agreement between the Atlantic County Utilities Authority (ACUA) and Somerset County for use of the Atlantic County Limited Use Landfill provides for a 10 year disposal arrangement. As previously indicated, the basic agreement between the parties promotes the Department's critical public policy goal of self-sufficiency, maximizes the use of existing in-state disposal facilities, and assists the ACUA in fulfilling its debt obligations. The agreement is consistent with current state policy and both counties should be commended. However, the Department does have concerns with the physical distance between the counties and the 10 year duration of the Interdistrict Agreement. Based upon the primary traffic routing plan adopted within the May 13, 1993 amendment, it is approximately 105 miles from the BRI Transfer Station in Bridgewater Township, Somerset County, to the Atlantic County Limited Use Landfill using the designated Garden State Parkway route. While the agreement is clearly preferable to out-of-state disposal, ancillary impacts of long-haul in-state transport, such as vehicle emissions, noise, traffic congestion, and safety must be considered. Inefficiencies in time spent in such long-distance travel without the benefit of reciprocal backhaul arrangements is also of concern.

Despite the positive nature of the Interdistrict Agreement and Somerset County's commitment to achieve in-state self-sufficiency in solid waste disposal by January 1, 1998, the Department remains concerned with the lack of any long-term disposal capacity within Somerset County or the immediate region. Toward the long-term, it would be preferable for Somerset County to develop processing and disposal capacity, including that for bulky (Type 13) and dry industrial (Type 27) waste, on an in-county basis or in closer proximity to Somerset County. Consideration of developing or obtaining such capacity must be part of any facility planning or negotiations undertaken toward a long-term management plan.

As a result of these concerns, the Atlantic/Somerset Interdistrict Agreement has been approved with modification within Section C. of the certification to authorize, at this time, only the first five years of primary reliance on disposal of Somerset County bulky and dry industrial waste at the Atlantic County Limited Use Landfill. In this regard, the Interdistrict Agreement is approved as a primary component of the Atlantic County Plan for a term of five years from the date of its execution on January 19, 1993. Should Somerset County's long-term plans demonstrate to the Department's satisfaction a need for the continued primary reliance upon disposal capacity at the Atlantic County Limited Use Landfill for bulky and dry industrial waste, the Department will authorize the second five-year increment of the Interdistrict Agreement or some portion thereof.

C. Certification of the Atlantic County District Solid Waste Management Plan Amendment

In accordance with N.J.S.A. 13:1E-1 et seq., specifically N.J.S.A. 13:1E-21, which establishes specific requirements regarding the contents of the district solid waste management plans, I have reviewed the May 13, 1993 amendment to the approved County Plan and certify to the County Freeholders that the May 13, 1993 amendment is approved with modification as further specified below.

The County Plan inclusion of the Atlantic County/Somerset County Interdistrict Agreement is approved with modification as a primary component of the Atlantic County Plan for a term of five years from the January 19, 1993 execution date. Should Somerset County's long-term plans demonstrate to the DEPE's satisfaction a need for continued primary reliance upon disposal capacity at the Atlantic County Limited Use Landfill for bulky and dry industrial waste, the Department will authorize the second five year increment of the Interdistrict Agreement or some portion thereof. The interdistrict agreement allows Somerset County to deliver for disposal between 30,000 and 60,000 tons annually of solid waste types 13 and 27 (bulky waste and nonhazardous industrial waste) processed at the BRI Transfer Station, facility number 1806A, located in Bridgewater Township, Somerset County, to the Atlantic County Limited Use Landfill, facility number 0108N, located in Egg Harbor Township, Atlantic County. This solid waste flow component of the plan amendment is approved. This waste flow component of the County Plan was previously implemented via a February 3, 1993 Emergency Redirection Order and remains subject to revision and clarification during the formal waste flow rulemaking process.

The traffic routing plan component of the plan amendment is approved. Specifically, transporters originating from Somerset County shall follow Route 18 east to the Garden State Parkway, then proceed southbound along the Garden State Parkway to the Atlantic City Expressway, then proceed west along the Atlantic City Expressway to Exit 9, then proceed east on Delilah Road to the Atlantic County Utilities Authority Environmental Park where the Limited Use Landfill is located. The alternative route for transporters originating in Somerset County is to proceed southbound on Route 206 to Route 30, then proceed east along Route 30 to Tilton Road, then proceed south along Tilton Road to Delilah Road, then proceed east along Delilah Road to the ACUA Environmental Park.

D. Other Provisions Affecting the Plan Amendment

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with this amendment to the County Plan and which was executed prior to the approval of this amendment and subsequent to the effective date of the Solid Waste Management Act (July 29, 1977), and which shall further be for a term in excess of one year, shall immediately be renegotiated in order to bring same into conformance with the terms and provisions herein set forth. Any solid waste collection operation or disposal facility registered by the Department and operating pursuant to a contract as herein described, shall be deemed to be in violation of this amendment and of the County Plan if such renegotiation is not completed within ninety (90) days of the effective date of this amendment provided, however, that any such registrant may, upon application to the Department, and for good cause shown, obtain an extension of time to complete such renegotiation.

2. Compliance

All solid waste facility operators and transporters registered with the Department and operating within the County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the County Plan. Any facility operator or transporter who fails to comply with the provisions contained herein shall be deemed to be in violation of N.J.S.A. 13:1E-1 et seq., in violation of N.J.A.C. 7:26-1 et seq., and in violation of their registration to operate a solid waste facility or a collection system issued thereunder by the Department and shall be subject to the provisions and penalties of N.J.S.A. 13:1E-9 and 12 and all other applicable laws.

3. Types of Solid Wastes Covered by the District Solid Waste Management Plan

The provisions of the County Plan shall apply to all solid wastes defined in N.J.S.A. 13:1E-3 and N.J.A.C. 7:26-2.13 and shall not apply to liquid wastes, sewage sludge, septage, and hazardous wastes. All nonhazardous materials separated at the point of generation for sale or reuse are excluded from the waste flows designated in the Interdistrict and Intradistrict Solid Waste Flow Rules set forth at N.J.A.C. 7:26-6, but are subject to regulation in accordance with N.J.A.C. 7:26A-1 et seq.

4. Certification to Proceed with the Implementation of the Plan Amendment

This document shall serve as the certification of the Acting Commissioner of the Department to the County Freeholders and pursuant to N.J.S.A. 13:1E-24c and f, the County shall proceed with the implementation of the approved amendment, as modified, certified herein.

5. Definitions

For the purpose of this amendment and unless the context clearly requires a different meaning, the definitions of terms shall be the same as those found at N.J.S.A. 13:1E-3 and -99.12, N.J.A.C. 7:26-1.4 and -2.13, and N.J.A.C. 7:26A-1.3.

6. Effective Date of the Amendment

The amendment, as modified, to the County Plan contained herein shall take effect immediately.

7. Reservation of Authority

Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan. The Department has published a

Statewide Solid Waste Management Plan, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the Department, interdistrict and intradistrict waste flow rules, and also includes the compilation of individual district plans and amendments as they are approved.

E. Certification of Approval With Modification of the Amendment by the Acting Commissioner of the Department of Environmental Protection and Energy

In accordance with the requirements of N.J.S.A. 13:1E-1 et seq., I hereby approve with modification the amendment, as outlined in Section C. of this certification, to the Atlantic County District Solid Waste Management Plan which was adopted by the Atlantic County Board of Chosen Freeholders on May 13, 1993. This certification memorializes the determinations made by me on or before October 28, 1993.

Oct. 28, 1993
DATE

Jeanne M. Fox
JEANNE M. FOX
ACTING COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND ENERGY