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Commissioner

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

CERTIFICATION  
OF THE APRIL 7, 1992  
AMENDMENT TO THE SOMERSET COUNTY  
DISTRICT SOLID WASTE MANAGEMENT PLAN

BY ORDER OF THE 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 July 31, 1980, the Department of Environmental Protection approved, with modifications, the Somerset 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 plan at any time and, if found inadequate, a new plan must be adopted. The Somerset County Board of Chosen Freeholders (County Freeholders) completed such a review and on April 7, 1992, adopted an amendment to its approved County Plan.

The amendment is the County's strategy for addressing the recommendations of the Emergency Solid Waste Assessment Task Force (Task Force) Final Report concerning source reduction, 60% recycling, and regionalization.

The amendment was received by the Department of Environmental Protection and Energy (Department or DEPE) on May 18, 1992 and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed this amendment, as well as the entire County Plan, and has determined that the amendment adopted by the County Freeholders on April 7, 1992 is approved in part and rejected in part as provided in N.J.S.A. 13:1E-24. Both immediate and longstanding deficiencies in the County Plan have been identified within Section C. of this certification.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the April 7, 1992 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 the approved portions of the plan amendment are consistent with the Statewide Solid Waste Management Plan.

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 Energy, DEPE  
Division of Parks and Forestry, DEPE  
Division of Fish, Game and Wildlife, DEPE  
Division of Solid Waste Management, DEPE  
Green Acres Program, DEPE  
Land Use Regulation Element, DEPE  
Groundwater Quality Management Element, DEPE  
Wastewater Facilities Regulation Element, DEPE  
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 April 7, 1992 Amendment

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

Office of Energy, DEPE  
Division of Parks and Forestry, DEPE  
Division of Fish, Game and Wildlife, DEPE  
Green Acres Program, DEPE  
Land Use Regulation Element, DEPE  
New Jersey Turnpike Authority  
New Jersey Advisory Council on Solid Waste Management  
Department of Agriculture  
Department of Transportation

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

Groundwater Quality Management Element, DEPE  
Wastewater Facilities Regulation Element, DEPE  
Department of Health  
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. Issues of Concern Regarding the April 7, 1992 Amendment

Issue: 60% Recycling Strategy

Numerous issues have been identified relative to the County's 60% recycling strategy. These issues are as follows:

a. County Proposed Studies and Programs

The County has proposed to implement within 90 days of the date of this certification document: a public education campaign to promote source reduction, a study of the existing per container collection systems, and a source reduction program for County and municipal offices. The County has also proposed to complete within 120 days of the date of this certification an investigation of the viability of recycling certain materials (chipboard boxes, telephone books, plastic containers, polycoated paper, and textiles). The Department applauds the aggressive schedule the County has committed to in these areas. However, to ensure timely completion and to move forward with implementation plans, the County should submit a subsequent plan amendment detailing the results of these studies and program, along with detailed schedules to expand source reduction and recycling initiatives. Also, as part of the County's development of the source reduction program for County and municipal offices, the County should develop a schedule for the completion of waste audits for these government offices and submit this schedule as part of the required plan amendment submission.

**b. Municipal Programs**

The County has directed each municipality to amend, within 90 days of the date of this certification, its source separation and recycling ordinances to require commercial facilities to prepare waste reduction audits and waste reduction plans according to certain deadlines. Specifically, waste reduction audits and plans should be developed on the following schedule: for any establishment with 500 or more employees, by December 31, 1993; for any establishment with 250-500 employees, by December 31, 1994; and for any establishment with 100-250 employees, by December 31, 1995. The County also directed each municipality to amend, within 60 days of the date of this certification, its recycling ordinances to reflect the added designated recyclable materials as contained in Section C.1.e.(1). The amended ordinances would also require commercial, institutional and industrial facilities to report their recycling activities to the municipal recycling coordinator and to develop source reduction and recycling plans. While the Department acknowledges that the information derived from the reporting of recycling activities from this sector would be beneficial to the planning of needed recycling facilities, the Department is in the process of implementing a revised reporting system that would negate the need for the County's proposed system. The Department's new reporting system will require the recycling markets to report tonnages to the Department and this information will be forwarded to the counties in a timely fashion. Therefore, the commercial, institutional and industrial recycling activity reporting requirement should be rejected. This rejection of the reporting requirement does not affect the requirement for the commercial, institutional and industrial facilities to develop source reduction and recycling plans. The County should submit a subsequent plan amendment reporting the results of the adoptions of the municipal ordinances.

**c. Procurement Policies**

The amendment provides that the County intends to continue to implement procurement policies that favor the purchase of recycled materials. However, neither the amendment nor the County Plan identify its procurement policy, specific procurement guidelines, procurement goals, a method of recordkeeping and enforcement, or a timetable for implementation. The County should develop its program to include an educational and outreach program to municipalities; a requirement for County and local governments to adhere to current and future State procurement goals; sample bid specifications for use by governments and private businesses; and the purchase of photocopiers with duplexing capabilities; the use of recycled products instead of virgin products; and the use of recycled materials for road and other construction activities. A more detailed plan for the implementation of existing and revised procurement policies which take into consideration the above provisions should be included in a subsequent plan amendment submission.

**d. Household Hazardous Waste Policy**

The County has proposed to study the feasibility of developing a permanent household hazardous waste collection facility. As a part of this investigation, the County should explore the possibility of regionalizing any proposed facility. Also, a facility of this type will require solid

waste plan inclusion once a specific site is identified as well as all necessary permits and approvals from the Department. A schedule outlining the major milestones of the permanent household hazardous waste collection facility feasibility study must be provided to the Department within a subsequent plan amendment submission.

**e. Designated Recovery Target**

The amendment indicates a goal to recycle 60% of the County's total waste stream by December 31, 1995. However, documentation to support obtainment of this goal is not included within the amendment. Also, the County has not indicated a goal to recycle 50% of the municipal waste stream by December 31, 1995. The County should indicate this latter goal as well as documentation to support attainment of both goals in a subsequent plan amendment submission. Further, the County should not consider the 50% and 60% rates as maximum planning targets and should continue to refine and develop plans and programs toward achievement of even higher levels of recycling.

**f. Enforcement Strategy**

The amendment fails to indicate how the County will enforce its expanded recycling program. The County should describe such an enforcement program in a subsequent plan amendment, including methods and frequency of enforcement and resources needed to implement and maintain a proper enforcement program.

**g. Additional Processing Facilities**

The County should consider the development of processing facilities such as a mixed waste and/or a bulky waste processing facility to increase the rate of recycling of various materials. Also, the County is not limited to developing just one facility for each type of waste but should evaluate opportunities for regionalizing, and should consider developing facilities within and outside the County on a regional use basis.

**h. Cost for Implementing 60% Recycling Strategy**

The amendment does not indicate a projected cost for implementing the many programs necessary to achieve the County's 60% recycling strategy. The County should prepare such an estimate and include it in a subsequent plan amendment submission.

**i. Regionalization**

The amendment notes that the County has an interdistrict agreement with Warren County to process a portion of its processible solid waste at the Warren County incinerator. Further, the amendment indicates that Somerset County will explore the potential for increasing the amount of waste delivered to the Warren County incinerator. The Department supports the County's efforts to reduce the amount of solid waste it transports out-of-state. However, without a major expansion of the Warren County incinerator any additional solid waste delivered to the incinerator would not greatly reduce the approximate 75% of the County's solid waste

currently being transported out-of-state for disposal. The amendment also indicates that the County will investigate the use of Warren County solid waste at the proposed Somerset County municipal solid waste compost facility. This proposed facility was included in the County Plan by an amendment that was certified by the Department on February 6, 1991. However, to date, the Department has not been provided with any evidence that the County has progressed with the development of this solid waste compost facility. Also, Somerset County has not provided sufficient in-county disposal capacity nor has the County entered into any additional interdistrict agreements with other counties to provide in-state disposal capacity for the solid waste that is currently being transported out-of-state. This County Plan deficiency has been repeatedly documented in plan amendment certifications since 1985. The Department remains fully committed to the policy whereby New Jersey will be self-sufficient with respect to solid waste disposal. Therefore, Somerset County should provide within a subsequent plan amendment submission a schedule highlighting the steps the County plans to undertake to become self-sufficient with respect to solid waste disposal through the development of new in-county disposal capacity or the entering of additional interdistrict agreements. Further, the plan amendment should specifically address the status of the planned municipal solid waste composting facility, indicate the planned size of the facility and include a development schedule. Finally, the plan amendment should address, as part of the long-term disposal plan, opportunities for regional use of capacity.

**j. Construction/Demolition Waste Recycling**

The County has proposed a policy which would require that all recyclable material generated from construction/demolition projects be separated by material at the point of generation. More specifically, the impact of the proposed policy would be to require each separate material (brick, concrete, asphalt, etc.) to be placed into a separate container at the construction site. Such a requirement would be logistically difficult, potentially economically prohibitive and contrary to state policy which allows for the commingling of inert materials, such as brick, concrete, dirt, stones and asphalt, in the same container. Construction/demolition waste is considered to be Class B recyclable materials. The Department, by virtue of the statutory authority granted it at N.J.S.A. 13:1E-99.34.b., has adopted regulations at N.J.A.C. 7:26A which govern, among other things, the operation of recycling centers accepting Class B recyclable materials. Pursuant to these regulations, the Department conducts an analysis of each recycling center approval application to determine whether the recycling center has sufficient equipment and/or procedures to separate certain Class B recyclable materials if they are accepted in a commingled state. (See N.J.A.C. 7:26A-3.5(e)3iii.) Where such equipment and/or procedures exist, the Department will authorize the recycling center to receive specific Class B recyclable materials in a commingled state. (See N.J.A.C. 7:26A-4.1(a)liii.) The ability of recycling centers to accept recyclable materials in a commingled state is critical to their efficient and profitable operation inasmuch as it reduces handling and transportation costs. Accordingly, controlled commingling ultimately contributes to the successful operation of approved recycling centers and, consequently, results in the recycling of a greater

percentage of construction and demolition waste. The County's proposed policy, therefore, is not only contrary to the Department's policy of promoting greater recycling of construction and demolition waste, but also is specifically preempted by the Department's direct regulation of commingling pursuant to N.J.A.C. 7:26A-3.5(e)3iii and 7:26A-4.1(a)1iii. The County's proposed policy should be rejected.

**k. Recycling Source Separation Requirements**

The County has proposed a policy which requires that all recyclable material which is commingled with solid waste be delivered to the Bridgewater Resources, Inc. transfer station. This requirement precludes the use of any independent transfer station or materials recovery facility to process the recyclable material from the waste stream. This policy is contrary to Departmental policy which allows the intercounty movement of solid waste to transfer stations and materials recovery facilities as long as recordkeeping requirements are followed and any residue is returned to the county of generation. Therefore, this policy of the County should be rejected.

**l. Vegetative Waste**

The amendment sets forth the County's policy to encourage backyard composting and the leaving of grass cuttings on the lawn for natural decomposition. The amendment also proposes a yard waste disposal ban with respect to grass and brush by December 31, 1992. However, the amendment does not detail the program that will promote either policy. Also, the amendment states that the County will explore opportunities for commercial or regional compost, chipping and mulching facilities for those situations where on-site management is not feasible. Further, the amendment does not: update the inventory of existing compost facilities in the County; identify proposed facilities and facilities under development; nor estimate the annual tonnage diverted from the waste stream as a result of the County's composting efforts. Therefore, the County should provide within a subsequent plan amendment submission its education strategy for implementing "Cut It and Leave It" and backyard composting programs, the schedule for the development of needed compost facilities, and the other required information listed above.

**m. Items Banned from Disposal Facilities**

The amendment has proposed a ban from disposal in the solid waste stream of certain items (nonrecyclable batteries, household hazardous waste, concrete and asphalt, and nontreated wood). The intent of this ban is commendable in attempting to ensure that certain items are recycled or, if hazardous, will not enter the solid waste stream. However, prior to the disposal ban being implemented, the County must demonstrate that facilities or systems are in place for the recycling of each of the materials noted above. Further, with respect to household hazardous waste, the County will need to specifically define the scope of the materials to be included within this ban.

As noted in Section C. of this certification, the April 7, 1992 amendment is approved with three exceptions. However, the above noted areas of source reduction, recycling and regionalization should be considered by the County in further refinement and development of its solid waste program in a subsequent plan amendment to be submitted within 180 days. Further, staff at the DEPE will be available to discuss the preceding comments and to work with the County to structure future plan amendment submissions.

C. Certification of the Somerset 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 April 7, 1992 amendment to the approved County Plan and certify to the County Freeholders that the April 7, 1992 amendment is approved in part and rejected in part as further specified below.

1. April 7, 1992 Amendment

a. Source Reduction

The County Plan inclusion of the County's source reduction program is approved as specified below.

(1) The County shall within 90 days of the date of this certification:

(a) Develop a public education campaign to encourage consumers to purchase products which promote source reduction.

(b) Investigate the expansion of per container collection programs in additional Somerset County municipalities to stimulate waste reduction and recycling.

(c) Develop a source reduction program for county and municipal government offices which will require the purchase of products which contain minimal packaging and reduced toxicity. The program will also contain procurement guidelines for purchasing products which contain a percentage of recycled content.

The County shall submit a more detailed narrative description and status report of the programs noted above and a schedule for the completion of waste audits for government offices to the Department in plan amendment form within 180 days of the date of this certification.



(2) The governing body of each County municipality shall within 90 days of the date of this certification amend its source separation and recycling ordinances to include the following:

(a) The commercial, industrial and institutional sectors are required to prepare waste reduction audits and waste reduction plans according to the following schedule:

(i) For any establishment with 500 or more employees, a waste audit and reduction plan must be prepared and submitted to the municipality and the County by December 31, 1993.

(ii) For any establishment with 250 to 500 employees, a waste audit and reduction plan must be prepared and submitted to the municipality and the County by December 31, 1994.

(iii) For any establishment with 100 to 250 employees, a waste audit and reduction plan must be prepared and submitted to the municipality and the County by December 31, 1995.

(b) The waste reduction plan shall include, but not be limited to, the following:

(i) The plan must indicate how the use of heavy metals will be eliminated from products and packaging.

(ii) The plan must indicate how the use of double packaging, except where required for the integrity, health, safety of the products, will be eliminated.

(3) School systems shall be required to adopt source reduction, reuse and recycling goals within 90 days of the date of this certification and submit them to the municipality and County. Source reduction programs similar to those which are required of county and municipal offices shall be implemented in each school district.

**b. Yard Waste Management**

The County Plan inclusion of a yard waste management strategy is approved. Specifically, the County endorses the landscape management strategy which encourages backyard composting and leaving grass clippings on the lawn for natural decomposition.

A yard waste disposal ban shall take place according to the following schedule:

Grass and brush shall be banned from disposal after December 31, 1994. Penalties shall be assessed against haulers who deliver grass or brush to disposal facilities after December 31, 1994.

In the interim, the County will continue to promote backyard composting and "cut it and leave it" strategies. The County will also explore opportunities for commercial or regional municipal solid waste composting, chipping and mulching facilities for those situations where on site generator landscape management is not feasible.

However, as noted in Section B.2.1., the County must submit a subsequent plan amendment within 180 days of the date of this certification which describes the program for promoting backyard composting and addresses the following:

- (1) The specific programmatic efforts made to encourage the development of vegetative waste composting facilities;
- (2) An updated inventory of existing vegetative waste composting facilities located in the County, including size and location;
- (3) A list of proposed facilities and facilities under development; and
- (4) Anticipated tonnage results on an annual basis.

**c. Household Hazardous Waste Policy**

The County's proposal to investigate the feasibility of developing a permanent household hazardous waste collection facility is approved. As previously noted in Section B.2.d., a facility of this type will require plan inclusion once a specific site has been identified as well as all necessary permits and approvals from the Department. Further, as part of the planned study, the County should investigate the opportunities for regionalizing the proposed facility. Finally, a schedule outlining the major milestones of the permanent household hazardous waste collection facility feasibility study must be provided to the Department within 180 days of the date of the certification in a subsequent plan amendment submission.

**d. Designated Recovery Target**

The County Plan inclusion of the goal to recycle 60% of the County's total waste stream by January 1, 1996 is approved. However, as noted in Section B.2.e. of the certification, the County should also establish a goal of recycling 50% of the municipal waste stream by January 1, 1996 and provide within 180 days of the date of this certification in a subsequent plan amendment submission documentation to indicate how current and planned source reduction and recycling programs will result in the achievement of both goals.

**e. Designated Recyclable Materials**

- (1) The following comprehensive listing of designated recyclable materials to be source separated in the residential, commercial,

institutional, and industrial sectors of each municipality is approved.

- Newspaper\*
- Magazines\*
- Glass containers\*
- Aluminum cans\*
- Corrugated cardboard\*
- Office paper\*
- Other paper products
- Junk mail
- Plastic containers (PET and HDPE)\*
- Lead-acid batteries
- Household batteries
- Used motor oil
- Wood
- Asphalt/concrete and masonry

\*Previously approved recyclables

(2) The County shall within 120 days of the date of this certification investigate and prepare a report which assesses the viability of stable markets for the following items and shall determine whether or not any of the listed items should be added to the list of designated recyclables.

- Chipboard boxes
- Telephone books
- Other plastic containers
- Poly-coated paper
- Textiles
- Polystyrene plastic
- Automobile tires
- White goods
- Ferrous and non-ferrous scrap
- Hazardous waste generated by small quantity generators

The County shall submit the report noted above to the Department in plan amendment form within 180 days of the date of this certification.

(3) The governing body of each County municipality shall within 60 days of the date of this certification amend their recycling ordinances to include the designated recyclable items listed in e.(1) above. In addition, the municipal recycling ordinances must require the following:

(a) All commercial, industrial and institutional establishments with 100 or more employees must submit a plan to their respective municipality and the County which outlines how source separation and recycling shall be accomplished within the establishment. The plan shall include, but not be limited to, the following:

(i) The manner in which the designated recyclables will be source separated from the waste stream.

(ii) The name of the market vendor for each designated recyclable commodity.

(b) The County proposal that the municipal recycling ordinances require all commercial, institutional and industrial establishments with 100 or more employees to report their recycling activities at least quarterly to the municipal recycling coordinator is rejected. The information that this reporting requirement would have generated will be obtained by the Department from the recycling end-markets and will be supplied to the counties on a regular basis.

The County shall submit the results of the adoptions of the municipal ordinances to the Department in plan amendment form within 180 days of the date of this certification.

**f. Items Banned From Disposal Facilities**

The County's banning of the following items from disposal in the solid waste stream is approved. However, the implementation of the ban is delayed until such time as the County can demonstrate to the Department that facilities or systems are in place for the recycling of each of the materials noted below. Also, the County must specifically define the household hazardous waste to be included within this ban. The materials in question are:

- (1) Nonrecyclable batteries to include alkaline, carbon zinc, zinc-air, and lithium batteries.
- (2) Hazardous waste generated by households and small quantity generators.
- (3) Concrete and asphalt.
- (4) Non-treated wood.

**g. Regionalization**

The Somerset County and Warren County Interdistrict Agreement was included within the County Plan through the February 6, 1991 certification of the August 7, 1990 amendment. Provisions of the agreement allow Somerset County to send a specified amount of solid waste to Warren County solid waste disposal facilities until November 30, 2008. Other provisions of the agreement allow Warren County to utilize the Somerset County recycling program. The proposal as contained in the April 7, 1992 amendment to investigate the possibility of increasing the amount of solid waste delivered to Warren County disposal facilities and the expanding of the proposed Somerset County municipal solid waste composting program to include some Warren County solid waste is approved. However, Somerset

County has not provided a schedule for development of this compost facility. Further, the Department is fully committed to the policy whereby New Jersey will be self-sufficient with respect to solid waste disposal. Therefore, the County must continue to investigate in-county capacity or enter a regional interdistrict agreement to cease its predominant reliance on out-of-state disposal. Consideration should be given to regional plans for materials processing, recycling, transfer, and disposal facilities. The results of this investigation must be provided in a subsequent plan amendment submission, along with a proposed implementation schedule, within 180 days of the date of this certification.

#### **h. Recycling Source Separation Requirements**

The recycling source separation requirements as contained in the plan amendment are rejected. The plan amendment proposed to require that recyclable material which is commingled with solid waste must be delivered to the Bridgewater Resources Transfer Station. This requirement precludes the use of any independent transfer station or materials recovery facility to process the recyclable material from the solid waste stream and deliver the residue solid waste to the solid waste facility designated in the Interdistrict and Intradistrict Solid Waste Flow Regulations (N.J.A.C. 7:26-6.5). This policy is contrary to Departmental policy which allows the intercounty movement of solid waste to transfer stations and materials recovery facilities, as long as recordkeeping requirements are followed, and any residue is returned to the county of generation. The Department has proposed rules regarding the intercounty movement of solid waste which were published in the New Jersey Register on September 21, 1992. A public hearing on this proposed rule will be held on October 20, 1992. Somerset County may wish to comment on the specific regulatory provisions at that time or during the written comment which closes on October 21, 1992.

#### **i. Construction/Demolition Waste Recycling**

The construction/demolition waste recycling requirements as contained in the plan amendment are rejected. The plan amendment proposed to require that all recyclable material generated from construction/demolition projects be separated by material at the point of generation. The Department, by virtue of the statutory authority granted it at N.J.S.A. 13:1E-99.34b., has adopted regulations at N.J.A.C. 7:26-A which govern, among other things, the operation of recycling centers accepting Class B recyclable materials, such as construction/demolition debris. Pursuant to these regulations, the Department conducts an analysis of each recycling center approval application to determine whether the recycling center has sufficient equipment and/or procedures to separate certain Class B recyclable materials if they are accepted in a commingled state. (See N.J.A.C. 7:26A-3.5(e)3iii.) Where such equipment and/or procedures exist, the Department will authorize the recycling center to receive specific Class B recyclable materials in a commingled state. (See N.J.A.C. 7:26A-4.1(a)liii.) The ability

of recycling centers to accept recyclable materials in a commingled state is critical to their efficient and profitable operation inasmuch as it reduces handling and transportation costs. Accordingly, controlled commingling ultimately contributes to the successful operation of approved recycling centers and, therefore, results in the recycling of a greater percentage of construction and demolition waste. The County's proposed policy is not only contrary to the Department's policy of promoting greater recycling of construction and demolition waste, but also is specifically preempted by the Department's direct regulation of commingling pursuant to N.J.A.C. 7:26A-3.5(e)3iii and 7:26A-4.1(a)1iii. Therefore, the County's proposed policy is hereby rejected.

**2. Somerset County District Solid Waste Management Plan Deficiencies**

On November 12, 1991, August 5, 1991 and February 6, 1991, recent amendments to the County Plan were certified. Within those certifications deficiencies were noted in the County Plan and the County Freeholders were directed to address the deficiencies within a subsequent plan amendment submission. Specifically, the longstanding deficiencies pertain to the lack of sufficient available suitable sites, the lack of a transportation plan, and the lack of a description of the financing of the needed solid waste facilities. The remaining County Plan deficiencies must still be addressed in a subsequent plan amendment submission as noted in the earlier certifications referenced above, as well as throughout Section C.1. above.

**3. Somerset County Response to Solid Waste Task Force Final Report**

The County Plan has been reviewed to determine whether it fulfills the recommendations of the Emergency Solid Waste Assessment Task Force Final Report accepted by the Governor on November 16, 1990. As adopted, the County Plan generally addressed the source reduction, recycling, and regionalization components of the Task Force Final Report. The areas noted above that need further consideration must be addressed within 180 days of this certification in a subsequent plan amendment submission.

**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 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 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 approved amendment to the County Plan contained herein shall take effect immediately.

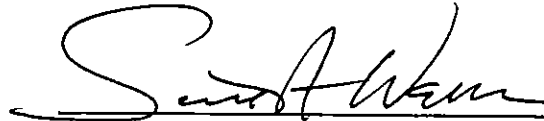
7. Reservation of Authority

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 in Part and Rejection in Part of the Amendment and Notification of Deficiencies by the 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 in part and reject in part the amendment, as outlined in Section C. of this certification, to the Somerset County District Solid Waste Management Plan which was adopted by the Somerset County Board of Chosen Freeholders on April 7, 1992. I hereby also require, as noted in Section C., the Somerset County Board of Chosen Freeholders to address the noted deficiencies within the timeframes specified.

10/1/992  
DATE



SCOTT A. WEINER  
COMMISSIONER  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
AND ENERGY