Legislative Action

Renegotiation of Solid Waste Contracts

The General Assembly has passed a bill authorizing municipal governments to renegotiate solid waste contracts during the term of the contracts to take advantage of rate reductions at solid waste facilities utilized by the haulers to whom the contracts were awarded. Bill A-1725 also mandates that any savings thus realized be placed in its surplus revenue account. The bill has been received in the Senate and referred to the Senate Environment Committee. Also in that committee is an identical bill, S-1914.

Permit Review Schedules

Under Assembly bill A-526, every State agency would have to develop a schedule for the issuance of all permits regulated by that agency, and refund permit fees where the schedule is not kept. The refund would not relieve the agency of its obligation to process an application according to the schedule. The bill was amended by the Assembly Regulatory Oversight Committee and referred to the Assembly Appropriations Committee.

Bill Withdrawn

Assembly bill A-949, reported in the previous issue of the Update, has been withdrawn. The bill would have required real property contracts to contain a clause giving notice of the availability of a list, to be developed by NJDEP, of known hazardous discharge sites and sanitary landfills.

Four Solid Waste Bills Advance

The Assembly Solid and Hazardous Waste Committee reported out committee substitutes for four solid waste bills that have now been referred to the Assembly Appropriations Committee. The first, A-81, revises the Solid Waste Management Act ("SWMA") to curtail the role of State and county governments in solid waste management and to amend the SWMA to conform with recent court decisions on State and local waste flow control authority. A-82, the "Municipal Solid Waste Management Act," codifies and supplements the authority of municipalities to assume
primary responsibility for the collection and disposal of municipal solid waste. A-83 addresses changes in recycling laws and regulations.

The fourth bill, A-84, provides for termination of the State's power to regulate solid waste collection and disposal rates, but allows NJDEP to continue to supervise the public utility aspects of the solid waste industry.

**Pesticide Contamination Testing**

NJDEP would be required to test for historic pesticide contamination at the request of a local government proposing to construct a school, daycare facility, park or playground on land suspected to be contaminated with pesticides, under the provisions of Senate bill S-1235, which would appropriate $150,000 to NJDEP to implement the provisions of the bill. The legislation, prompted by the findings and recommendations of the Historic Pesticide Contamination Task Force, has been referred to the Senate Environment Committee.

**Administrative Rule-Making**

As reported in the April issue of Update, Assembly bill A-1484 would amend the "Administrative Procedure Act" ("APA") to ensure a more open and deliberative rule-making process. An identical companion bill, S-1306, has now been introduced. Both bills have had second readings in the Senate and have progressed to the Senate Budget and Appropriations Committee. The bills require a regulatory impact analysis of all proposed new rules, provide for public petition for rule adoption or revision, and broaden public hearing requirements to include public hearings if "sufficient public interest" is shown.

**Municipal Remediation Ordinances**

Companion bills A-2478 and S-1307 provide that municipal remediation ordinances shall not apply to property being investigated or remediated under the oversight of NJDEP, provided that a "No Further Action Letter" is issued by the department as a condition of any development approval by the municipality. The Assembly bill is in the Assembly Solid and Hazardous Waste Committee; the Senate bill is in the Senate Environment Committee.

**Funding for Environmental Education**

Assembly bill A-2472 would provide a supplemental appropriation of $200,000 to the Department of Education for a grant-in-aid to the New Jersey Commission on Environmental Education for funding certain innovative professional development programs and establishing and supporting exemplary environmental education programs for citizens of all ages. The bill was introduced and referred to the Assembly Environment Committee.

**New Rules Govern Wetlands Appeal Process**
The Corps has published a final rule establishing a one-step appeal process for jurisdictional determinations ("JD"). In a JD, the Corps determines whether the land at issue is a wetland. When the JD is positive, the developer is required to obtain a wetlands permit for the project. Significantly, the public is not included in the new JD appeals process. A Corps review officer renders the final decision on the merits of the appeal. 65 Fed. Reg. 16486 (March 28, 2000).

Practice:

Environmental Law