

CHAPTER 169

AN ACT concerning privately-owned sanitary landfill facilities, and revising various sections of statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.48:13A-7.24 Short title.

1. Sections 1 through 10 of P.L.2003, c.169 (C.48:13A-7.24 et seq.) shall be known and may be cited as the "Commercial Landfill Regulatory Reform Act."

C.48:13A-7.25 Findings, declarations relative to solid waste disposal services.

2. The Legislature finds and declares that efficient and reasonable solid waste disposal services at competitive rates will more likely be achieved if the services of privately-owned sanitary landfill facilities in this State are under the supervision of the Department of Environmental Protection but not subject to traditional public utility economic regulation.

The Legislature further finds and declares that it is imperative that the State ensure the economic viability and competitiveness of all solid waste disposal facilities in this State whether publicly or privately owned in order to safeguard the integrity of the State's solid waste management strategy; that it is equally imperative to safeguard the interests of consumers in efficient sanitary landfill services at competitive rates; that to achieve these ends and provide for consumer protection it is necessary to foster competition and this can best be achieved by establishing a responsible State supervisory role and abolishing traditional utility economic restrictions which place New Jersey's commercial landfills at a competitive disadvantage and threaten their economic viability in today's competitive market for solid waste disposal services.

The Legislature further finds and declares that reforming traditional public utility regulation with respect to privately-owned sanitary landfill facilities in the manner hereinafter provided will not compromise the State's ability to supervise the solid waste disposal services provided at such commercial facilities pursuant to P.L.1970, c.40 (C.48:13A-1 et seq.) or its ability to prevent persons with criminal backgrounds from engaging in the business of solid waste disposal through implementation of the licensing system established under P.L.1983, c.392 (C.13:1E-126 et seq.) and P.L.1991, c.269 (C.13:1E-128.1 et al.).

The Legislature therefore determines that it is in the public interest to provide for the reform of this State's economic regulation of privately-owned sanitary landfill facilities while at the same time maintaining State supervision over these commercial facilities.

C.48:13A-7.26 Definitions relative to solid waste disposal services.

3. As used in sections 1 through 10 of P.L.2003, c.169 (C.48:13A-7.24 et seq.):

"Department" means the Department of Environmental Protection.

"Market-based rates" means the solid waste disposal rates collected by a privately-owned sanitary landfill facility which do not exceed rates charged at other solid waste facilities in this State or at competing out-of-State facilities.

"Privately-owned sanitary landfill facility" means a commercial sanitary landfill facility which is owned and operated by a private person, corporation or other organization and includes all appurtenances and related improvements used at the site for the transfer, processing or disposal of solid waste.

"Sanitary landfill facility" means a solid waste facility at which solid waste is deposited on or in the land as fill for the purpose of permanent disposal or storage for a period exceeding six months, except that it shall not include any waste facility approved for disposal of hazardous waste.

"Solid waste disposal services" means the services provided by persons engaging in the business of solid waste disposal.

C.48:13A-7.27 Certificate of public convenience and necessity required for operation.

4. a. The owner or operator of every privately-owned sanitary landfill facility shall hold a certificate of public convenience and necessity issued by the department pursuant to the provisions of section 7 of P.L.1970, c.40 (C.48:13A-6).

b. The terms and conditions of solid waste disposal services at a privately-owned sanitary landfill facility shall be set forth in a tariff filed with the department.

c. Within ten days of any deletion or addition of a service, a tariff amendment shall be filed with the department.

C.48:13A-7.28 Adjustment of rates.

5. a. The solid waste disposal rates collected by a privately-owned sanitary landfill facility may be adjusted upon 30 days' notice to current customers and publication in a newspaper of general circulation in the service area once a week for two consecutive weeks, with the first notice being 30 days in advance of the effective date of the adjustments, and following their effective date the rates shall be posted in a prominent location at the entrance to the privately-owned sanitary landfill facility.

b. The notice of solid waste disposal rate adjustments shall be filed with the department within three days of their effective date.

C.48:13A-7.29 Annual fee.

6. a. The total annual fee collected by the department from the owner or operator of a privately-owned sanitary landfill facility to cover the costs of supervising the privately-owned sanitary landfill facility pursuant to the provisions of P.L.1970, c.40 (C.48:13A-1 et seq.) shall not exceed the annual assessment authorized under the provisions of P.L.1968, c.173 (C.48:2-59 et seq.).

b. For the purposes of the annual assessment authorized under the provisions of P.L.1968, c.173 (C.48:2-59 et seq.), the owner or operator of a privately-owned sanitary landfill facility shall file with the department not later than May 1 of each year a certification of gross operating revenues received from intrastate utility services during the preceding calendar year.

C.48:13A-7.30 Solid waste disposal rates deemed just and reasonable.

7. a. Notwithstanding the provisions of any other law, rule or regulation, court decision or order of the Board of Public Utilities or department to the contrary, the solid waste disposal rates collected by a privately-owned sanitary landfill facility shall be deemed just and reasonable for the purposes of section 8 of P.L.1970, c.40 (C.48:13A-7) if those rates are market-based rates.

b. The solid waste disposal rates collected by a privately-owned sanitary landfill facility which exceed the market-based rates authorized pursuant to subsection a. of this section shall not be deemed unjust and unreasonable if the solid waste disposal rates are designed to: (1) stabilize incoming waste flows and prevent the premature exhaustion of landfill capacity; or (2) recover sufficient revenues to meet the revenue requirements of the privately-owned sanitary landfill facility.

c. The internal cost of service or financial condition of a privately-owned sanitary landfill facility shall be deemed relevant only if the owner or operator of the affected facility raises a revenue requirement defense in a contested case proceeding initiated by the department pursuant to section 8 of P.L.2003, c.169 (C.48:13A-7.31). In such a case, the owner or operator of the privately-owned sanitary landfill facility, at the owner's sole discretion, may establish a reasonable profit margin using either the return on rate base or operating margin methodology, or any alternative methodology which is consistent with market practices.

C.48:13A-7.31 Contested case proceedings.

8. a. Whenever, on the basis of available information, the department has reasonable grounds for belief that the solid waste disposal rates collected by a privately-owned sanitary landfill facility are not in compliance with the market-based rates authorized in subsection a. of section 7 of P.L.2003, c.169 (C.48:13A-7.30), the department may initiate contested case proceedings before the Office of Administrative Law as authorized herein.

b. At least 30 days prior to transmittal of the contested case to the Office of Administrative Law pursuant to subsection a. of this section, the department shall serve a notice on the owner or operator of the affected facility. The notice shall identify the solid waste disposal rate or rates at issue, describe and attach copies of the evidence relied upon, and afford the owner or operator an opportunity to be heard on why further action on the matter is not warranted.

c. Within 30 days of the close of the hearing before the Office of Administrative Law, the administrative law judge shall issue an initial decision which may recommend that the department order the owner or operator of the affected facility to adjust the solid waste disposal rates collected by the privately-owned sanitary landfill facility to bring the rates into compliance with the market-based rates authorized in subsection a. of section 7 of P.L.2003, c.169 (C.48:13A-7.30), if the department shows that the solid waste disposal rates identified in the notice of transmittal: (1) are not in compliance with the market-based rates authorized in subsection a. of section 7 of P.L.2003, c.169 (C.48:13A-7.30) and the owner or operator of the affected facility has not demonstrated that the rates; (2) are designed to stabilize incoming waste flows; or (3) are needed to meet the revenue requirements of the privately-owned sanitary landfill facility.

d. The administrative law judge's initial decision shall be simultaneously served on the department and the owner or operator of the affected facility. Within 30 days of receipt of the initial decision, the department shall issue a final order affirming or rejecting the recommendations of the administrative law judge and describing with specificity the basis in the record for any findings or conclusions which are contrary to those set forth in the initial decision.

e. If the department fails to act on the initial decision within 90 days of its receipt, or within any extended period agreed to, in writing, by the owner or operator of the affected facility, the recommendations of the administrative law judge shall be deemed affirmed and the final agency decision in the case for the purposes of appeal. Any order on the initial decision issued by the department thereafter shall be of no effect.

f. Except to the extent expressly modified herein, the contested case proceeding authorized pursuant to this section shall be conducted in accordance with the rules and regulations applicable to such proceedings promulgated by the Office of Administrative Law, including rules applicable to summary judgment motions.

C.48:13A-7.32 Jurisdiction of department.

9. a. The provisions of section 18 of P.L.1975, c.326 (C.13:1E-27), Title 48 of the Revised Statutes, P.L.1970, c.40 (C.48:13A-1 et seq.), or any other law, rule or regulation adopted pursuant thereto, or order issued by the Board of Public Utilities or the department, to the contrary notwithstanding, the jurisdiction of the department with respect to the State supervision of privately-owned sanitary landfill facilities shall be exercised with respect to the solid waste disposal rates collected by privately-owned sanitary landfill facilities solely in the manner and to the extent expressly provided in the provisions of P.L.2003, c.169 (C.48:13A-7.24 et seq.), and shall not extend to the financial or business affairs of any privately-owned sanitary landfill facility or the owner or operator thereof, except to the extent expressly provided in the provisions of R.S.48:3-7 and section 12 of P.L.1970, c.40 (C.48:13A-11).

b. Nothing contained in the provisions of P.L.2003, c.169 (C.48:13A-7.24 et seq.) shall be construed to limit the authority of the department to regulate privately-owned sanitary landfill facilities with respect to the provision of solid waste disposal services pursuant to P.L.1970, c.40 (C.48:13A-1 et seq.), environmental standards and requirements pursuant to P.L.1970, c.39 (C.13:1E-1 et seq.) and licensing standards and requirements pursuant to P.L.1983, c.392 (C.13:1E-126 et seq.) and P.L.1991, c.269 (C.13:1E-128.1 et al.).

C.48:13A-7.33 Rules, regulations by department for regulatory reform.

10. Within 180 days of the effective date of P.L.2003, c.169 (C.48:13A-7.24 et seq.), the department shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations as are necessary to effectuate the provisions of this act and to implement the regulatory reforms enacted herein.

11. Section 5 of P.L.1970, c.40 (C.48:13A-4) is amended to read as follows:

C.48:13A-4 Rules, regulations for utility aspects.

5. a. The Department of Environmental Protection shall, after hearing, by order in writing, adopt appropriate rules, regulations or administrative orders for the regulation of rates and public utility aspects of the solid waste disposal industry.

b. The Department of Environmental Protection shall, after hearing, by order in writing, adopt appropriate rules, regulations or administrative orders for the supervision of the solid waste collection industry.

c. (Deleted by amendment, P.L.,2003, c.169).

12. Section 6 of P.L.1970, c.40 (C.48:13A-5) is amended to read as follows:

C.48:13A-5 Award of franchises.

6. a. The Department of Environmental Protection may, by order in writing, when it finds that the public interest requires, award a franchise to any person or persons engaged in solid waste disposal at rates published in tariffs or contracts accepted or to be accepted for filing by the Department of Environmental Protection.

After November 10, 1997, the Department of Environmental Protection shall not award a franchise to any person or persons engaged in solid waste disposal in this State.

b. (Deleted by amendment, P.L.2003, c.169).

c. For the purposes of this section, "franchise" shall mean the exclusive right to control and provide for the disposal of solid waste, except for recyclable material whenever markets for those materials are available, within a district as awarded by the Board of Public Utilities or the department prior to November 10, 1997.

d. In no event shall the department award a franchise to any person required to be listed in the disclosure statement, or otherwise shown to have a beneficial interest in the business of the applicant, permittee or the licensee as defined in section 2 of P.L.1983, c.392 (C.13:1E-127), if the department determines that there is a reasonable suspicion to believe that the person does not possess a reputation for good character, honesty and integrity, and that person or the applicant, permittee or licensee fails, by clear and convincing evidence, to establish his reputation for good character, honesty and integrity.

e. Nothing in section 11 of P.L.1970, c.40 (C.48:13A-10) shall be interpreted to prevent the implementation of this section by the Department of Environmental Protection.

13. Section 7 of P.L.1970, c.40 (C.48:13A-6) is amended to read as follows:

C.48:13A-6 Qualifications.

7. a. No person shall engage, or be permitted to engage, in the business of solid waste collection or solid waste disposal until found by the Department of Environmental Protection to be qualified by experience, training or education to engage in such business, is able to furnish proof of financial responsibility, and unless that person holds a certificate of public convenience and necessity issued by the Department of Environmental Protection.

(1) No certificate shall be issued for solid waste collection or solid waste disposal until the person proposing to engage in solid waste collection or solid waste disposal, as the case may be, has been registered with and approved by the Department of Environmental Protection as provided by section 5 of P.L.1970, c.39 (C.13:1E-5).

(2) No certificate of public convenience and necessity shall be issued by the Department of Environmental Protection to any person who has been denied approval of a license under the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.), or whose license has been revoked by the Department of Environmental Protection, as the case may be.

b. No person shall transport regulated medical waste until found by the Department of Environmental Protection to be qualified by experience, training or education to engage in such business, and is able to furnish proof of financial responsibility, and holds a certificate of public convenience and necessity issued by the Department of Environmental Protection. No certificate shall be issued for the transportation of regulated medical waste until the proposed transporter has obtained a registration statement required by section 5 of P.L.1970, c.39 (C.13:1E-5) and paid the fee imposed under section 9 of P.L.1989, c.34 (C.13:1E-48.9).

c. Notwithstanding the provisions of subsection b. of this section, the department shall not have jurisdiction over rates or charges for the transportation of regulated medical waste.

14. Section 1 of P.L.1981, c.221 (C.48:13A-6.1) is amended to read as follows:

C.48:13A-6.1 Sanitary landfill facility; operation after filing of and under conditions in tariff.

1. a. Notwithstanding the provision of any other law, rule or regulation to the contrary, no sanitary landfill facility shall commence or continue operation unless a solid waste disposal tariff therefor has been filed and approved by the Department of Environmental Protection pursuant to the "Solid Waste Utility Control Act," P.L.1970, c.40 (C.48:13A-1 et seq.). No sanitary landfill facility shall operate under any conditions contrary to those specifically set forth in its approved solid waste disposal tariff.

The provisions of this subsection shall not apply to sanitary landfill facilities operated by a public authority created pursuant to the "municipal and county utilities authorities law," P.L.1957, c.183 (C.40:14B-1 et seq.).

b. The provisions of subsection a. of this section shall not apply to a privately-owned sanitary landfill facility, except as provided in sections 1 through 10 of P.L.2003, c.169 (C.48:13A-7.24 et seq.). As used in this subsection, "privately-owned sanitary landfill facility" means a commercial sanitary landfill facility which is owned and operated by a private person, corporation or other organization and includes all appurtenances and related improvements used at the site for the transfer, processing or disposal of solid waste.

15. Section 8 of P.L.1970, c.40 (C.48:13A-7) is amended to read as follows:

C.48:13A-7 Proof of reasonable rates; adjustments.

8. a. The Department of Environmental Protection, upon complaint or its own initiative, after hearing, may direct any person engaging in the solid waste disposal business to furnish proof that the rates charged for solid waste disposal services do not exceed just and reasonable rates for such service.

b. Should the department find that the rates charged for solid waste disposal services are excessive, then the department may order the person charging such excessive rates to make an adjustment in the tariff or contract to a sum which shall result in just and reasonable rates.

16. Section 9 of P.L.1970, c.40 (C.48:13A-8) is amended to read as follows:

C.48:13A-8 Failure to perform; department orders.

9. a. Should any person engaged in the solid waste disposal business fail or refuse to complete, execute or perform any contract or agreement obligating that person to provide solid waste disposal services, the Department of Environmental Protection may order any person engaged in the solid waste disposal business to extend solid waste disposal services into any area where service has been discontinued in accordance with the provisions of R.S.48:2-27, and the department shall:

(1) fix an appropriate initial rate for solid waste collection service; or

(2) fix and exercise continuing jurisdiction over just and reasonable rates for solid waste disposal service in the extended area.

b. Should any person engaged in the solid waste collection business refuse to furnish solid waste collection services within a municipality pursuant to section 2 of P.L.1991, c.170 (C.40:66-5.2), the department may order the solid waste collector to provide these services in accordance with the provisions of R.S.48:2-23.

17. R.S.48:3-7 is amended to read as follows:

Utility property transactions.

48:3-7. a. No public utility shall, without the approval of the board, sell, lease, mortgage or otherwise dispose of or encumber its property, franchises, privileges or rights, or any part thereof; or merge or consolidate its property, franchises, privileges or rights, or any part thereof, with that of any other public utility.

Where, by the proposed sale, lease or other disposition of all or a substantial portion of its

property, any franchise or franchises, privileges or rights, or any part thereof or merger or consolidation thereof as set forth herein, it appears that the public utility or a wholly owned subsidiary thereof may be unable to fulfill its obligation to any employees thereof with respect to pension benefits previously enjoyed, whether vested or contingent, the board shall not grant its approval unless the public utility seeking the board's approval for such sale, lease or other disposition assumes such responsibility as will be sufficient to provide that all such obligations to employees will be satisfied as they become due.

Every sale, mortgage, lease, disposition, encumbrance, merger or consolidation made in violation of this section shall be void.

Nothing herein shall prevent the sale, lease or other disposition by any public utility of any of its property in the ordinary course of business, nor require the approval of the board to any grant, conveyance or release of any property or interest therein heretofore made or hereafter to be made by any public utility to the United States, State or any county or municipality or any agency, authority or subdivision thereof, for public use.

The approval of the board shall not be required to validate the title of the United States, State or any county or municipality or any agency, authority or subdivision thereof, to any lands or interest therein heretofore condemned or hereafter to be condemned by the United States, State or any county or municipality or any agency, authority or subdivision thereof for public use.

b. Notwithstanding any law, rule, regulation or order to the contrary, an autobus public utility regulated by and subject to the provisions of Title 48 of the Revised Statutes may, without the approval of the Department of Transportation, sell, lease, mortgage or otherwise dispose of or encumber its property, or any part thereof, except that approval of the Department of Transportation shall be required for the following:

- (1) the sale of 60% or more of its property within a 12-month period;
- (2) a merger or consolidation of its property, franchises, privileges or rights; or
- (3) the sale of any of its franchises, privileges or rights.

Notice of the sale, purchase or lease of any autobus or other vehicle subject to regulation under Title 48 of the Revised Statutes shall be provided to the Department of Transportation as the department shall require.

c. Except as otherwise provided in subsection e. of this section, no solid waste collector as defined in section 3 of P.L.1970, c.40 (C.48:13A-3) shall, without the approval of the Department of Environmental Protection:

- (1) sell, lease, mortgage or otherwise dispose of or encumber its property, including customer lists; or
- (2) merge or consolidate its property, including customer lists, with that of any other person or business concern, whether or not that person or business concern is engaged in the business of solid waste collection or solid waste disposal pursuant to the provisions of P.L.1970 c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et seq.), P.L.1991, c.381 (C.48:13A-7.1 et al.) or any other act.

d. Any solid waste collector seeking approval for any transaction enumerated in subsection c. of this section shall file with the department, on forms and in a manner prescribed by the department, a notice of intent at least 30 days prior to the completion of the transaction.

(1) The department shall promptly review all notices filed pursuant to this subsection. The department may, within 30 days of receipt of a notice of intent, request that the solid waste collector submit additional information to assist in its review if it deems that such information is necessary. If no such request is made, the transaction shall be deemed to have been approved. In the event that additional information is requested, the department shall outline, in writing, why it deems such information necessary to make an informed decision on the impact of the transaction on effective competition.

(2) The department shall approve or deny a transaction within 60 days of receipt of all requested information. In the event that the department fails to take action on a transaction within the 60-day period specified herein, then the transaction shall be deemed to have been approved.

- (3) The department shall approve a transaction unless it makes a determination

pursuant to the provisions of section 19 of P.L.1991, c.381 (C.48:13A-7.19) that the proposed sale, lease, mortgage, disposition, encumbrance, merger or consolidation would result in a lack of effective competition.

The department shall prescribe and provide upon request all necessary forms for the implementation of the notification requirements of this subsection.

e. (1) Any solid waste collector may, without the approval of the department, purchase, finance or lease any equipment, including collection or haulage vehicles.

(2) Any solid waste collector may, without the approval of the department, sell or otherwise dispose of its collection or haulage vehicles; except that no solid waste collector shall, without the approval of the department in the manner provided in subsection d. of this section, sell or dispose of 33% or more of its collection or haulage vehicles within a 12-month period.

f. (1) The owner or operator of a privately-owned sanitary landfill facility may, without the approval of the Department of Environmental Protection, sell or otherwise dispose of its assets except that the prior approval of the department shall be required (a) to sell all assets associated with the sanitary landfill facility or a portion thereof sufficient to transfer the operation of the sanitary landfill facility to a new owner or operator; (b) to sell a controlling ownership interest in the sanitary landfill facility; or (c) to merge or consolidate its property with that of any other person or business concern, whether or not that person or business concern is engaged in the business of solid waste disposal pursuant to the provisions of P.L.1970, c.39 (C.13:1E-1 et seq.), P.L.1970, c.40 (C.48:13A-1 et seq.) or any other act.

(2) Any owner or operator seeking approval for any transaction enumerated in this subsection shall file with the department an application therefor, on forms and in a manner prescribed by the department. The department shall promptly review all applications filed pursuant to this subsection and shall serve requests for information regarding any transaction within 30 days following the filing of an application if the department deems that such information is necessary. The department shall approve or deny the transaction within 60 days of receipt of all requested information. In the event that the department fails to take action on a transaction within the 60-day period specified herein, then the transaction shall be deemed to have been approved.

As used in this section, "business concern" means any corporation, association, firm, partnership, sole proprietorship, trust or other form of commercial organization; and "privately-owned sanitary landfill facility" means a commercial sanitary landfill facility which is owned and operated by a private person, corporation or other organization and includes all appurtenances and related improvements used at the site for the transfer, processing or disposal of solid waste.

18. R.S.48:3-9 is amended to read as follows:

Security transactions.

48:3-9. No public utility shall, unless it shall have first obtained authority from the board so to do:

(a) Issue any stocks, or any bonds, notes or other evidence of indebtedness payable more than 12 months after the date or dates thereof, or extend or renew any bond, note or any other evidence of indebtedness so that any extension or renewal thereof shall be payable later than 12 months after the date of the original instrument, or

(b) Permit any demand note to remain unpaid for a period of more than 12 months after the date thereof.

The board shall approve any such proposed issue, with or without hearing at its discretion, when satisfied that such issue is to be made in accordance with law and the purpose thereof is approved by the board.

The provisions of this section shall not apply to any public utility operating, managing or controlling a railroad or a railway express which is subject to the rules and regulations from time to time issued by the Interstate Commerce Commission.

The provisions of this section shall not apply to autobus public utilities under the jurisdiction of the Department of Transportation.

The provisions of this section shall not apply to any solid waste collector as defined in

section 3 of P.L.1970, c.40 (C.48:13A-3).

The provisions of this section shall not apply to any privately-owned sanitary landfill facility as defined in section 3 of P.L.2003, c.169 (C.48:13A-7.26).

19. Section 10 of P.L.1970, c.40 (C.48:13A-9) is amended to read as follows:

C.48:13A-9 Revocation or suspension of certificate of public convenience and necessity.

10. The Department of Environmental Protection shall revoke or suspend the certificate of public convenience and necessity issued to any person engaged in the solid waste collection business or the solid waste disposal business upon the finding that such person:

a. Has violated any provision of P.L.1970, c.40 (C.48:13A-1 et seq.) or P.L.1991, c.381 (C.48:13A-7.1 et al.), or any rule, regulation or administrative order adopted or issued pursuant thereto; or

b. Has violated any provision of any laws related to pollution of the air, water or lands of this State; or

c. Has refused or failed to comply with any lawful order of the department; or

d. Has had its registration revoked by the Department of Environmental Protection; or

e. Has been denied approval of a license under the provisions of P.L.1983, c.392 (C.13:1E-126 et seq.), or has had its license revoked by the Department of Environmental Protection, as the case may be.

20. Section 12 of P.L.1970, c.40 (C.48:13A-11) is amended to read as follows:

C.48:13A-11 Attendance of witnesses; production of tariffs, accounts and documents.

12. a. The Department of Environmental Protection may compel the attendance of witnesses and the production of tariffs, contracts, papers, books, accounts and all the documents necessary to enable the department to administer its duties as prescribed by law and the provisions of P.L.1970, c.40 (C.48:13A-1 et seq.).

b. The department may compel any person engaged in the business of solid waste disposal or otherwise providing solid waste disposal services in this State to furnish and file with the department any annual reports, federal or State tax returns, contracts, papers, books, accounts, customer lists, financial or operational information, or contracts, books, accounts and records of affiliated business concerns, including any affiliated or parent corporation or organization, or any wholly or partially owned subsidiary thereof, directly or indirectly involved therewith, or having a direct or indirect financial interest in the solid waste disposal services provided by that person, and all financial transactions between these parties related to the solid waste disposal services provided by that person, or other documents as may be necessary to enable the department to administer its duties as prescribed by law and the provisions of P.L.1970, c.40 (C.48:13A-1 et seq.).

c. Should any person engaged in the business of solid waste disposal or otherwise providing solid waste disposal services fail or refuse to comply with any provision of this section, or any applicable provision of Title 48 of the Revised Statutes, the department may revoke or suspend the certificate of public convenience and necessity issued to that person.

d. The provisions of this section shall apply to a privately-owned sanitary landfill facility as defined in section 3 of P.L.2003, c.169 (C.48:13A-7.26) only if the owner or operator of the affected facility raises a revenue requirement defense in a contested case proceeding initiated by the department pursuant to section 8 of P.L.2003, c.169 (C.48:13A-7.31).

21. Section 16 of P.L.1991, c.381 (C.48:13A-7.16) is amended to read as follows:

C.48:13A-7.16 Provision of annual report; failure to comply.

16. a. The Department of Environmental Protection may compel any person engaged in the business of solid waste collection or otherwise providing solid waste collection services to furnish and file with the department a consolidated annual report or other documents as may be necessary to enable the department to administer its duties as prescribed by law and the

provisions of P.L.1991, c.381 (C.48:13A-7.1 et al.).

b. Should any person engaged in the business of solid waste collection or otherwise providing solid waste collection services fail or refuse to comply with any provision of this section, the department may revoke or suspend the certificate of public convenience and necessity issued to that person.

22. Section 17 of P.L.1991, c.381 (C.48:13A-7.17) is amended to read as follows:

C.48:13A-7.17 Provision of records and other documents; failure to comply.

17. a. The Department of Environmental Protection may compel any solid waste collector to furnish and file with the department any records, including, but not limited to, manifests, origin and destination forms, customer lists, financial or operational information, contracts, books, accounts and records of affiliated business concerns, including any affiliated or parent corporation or organization, or any wholly or partially owned subsidiary thereof, directly or indirectly involved therewith, or having a direct or indirect financial interest in the solid waste collection services provided by the solid waste collector, and all financial transactions between these parties related to the solid waste collection services provided by the solid waste collector, and any other documents related to solid waste collection or solid waste disposal activities, at any time or place in order to determine compliance with the provisions of P.L.1991, c.381 (C.48:13A-7.1 et al.) or P.L.1970, c.40 (C.48:13A-1 et seq.) or any rule, regulation or administrative order adopted or issued pursuant thereto, and to enable the department to administer its duties as prescribed by law and the provisions of P.L.1991, c.381 (C.48:13A-7.1 et al.).

b. Should any solid waste collector fail or refuse to comply with any provision of this section, the department may revoke or suspend the certificate of public convenience and necessity issued to that person.

23. This act shall take effect on January 1, 2004.

Approved September 3, 2003.