



State of New Jersey

Christine Todd Whitman
Governor

Department of Environmental Protection
Office of the Commissioner
P.O. Box 402
Trenton, NJ 08625-0402
Tel. # 609-292-2885
Fax. # 609-292-7695

Robert C. Shinn, Jr.
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 JULY 30, 1998
AMENDMENT TO THE ATLANTIC 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 June 24, 1982, the Department of Environmental Protection (Department or DEP) 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.

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 July 30, 1998, adopted an amendment to its approved County Plan.

The amendment proposes County Plan inclusion of the Atlantic County Utilities Authority (ACUA) bird deterrent plan research, development, and demonstration project being conducted at the ACUA landfill located in Egg Harbor Township, Atlantic County. This plan, which provides for the night landfilling of municipal solid waste at the landfill, shall continue for an additional year with an increase in tonnage.

The amendment was received by the Department of Environmental Protection (Department or DEP) on October 2, 1998, 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 July 30, 1998 is approved 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 July 30, 1998 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 with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders are notified of the issues of concern relative to the July 30, 1998 amendment which are included in Section B.2. below.

In conjunction with the review of the amendment, the Department circulated copies to seventeen 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 DEP. All agencies contacted are as follows:

- Division of Water Quality Management, DEP
- Division of Parks and Forestry, DEP
- Division of Fish, Game and Wildlife, DEP
- Division of Compliance and Enforcement, DEP
- Division of Solid and Hazardous Waste, DEP
- Office of Air Quality Management, DEP
- Green Acres Program, DEP
- Land Use Regulation Element, DEP
- New Jersey Turnpike Authority
- New Jersey Advisory Council on Solid Waste Management
- Pinelands Commission
- Department of Agriculture
- Department of Health
- Department of Transportation
- Department of Community Affairs
- Federal Aviation Administration
- U.S. Environmental Protection Agency

1. Agency Participation in the Review of the July 30, 1998 Amendment

The following agencies did not object to the amendment:

Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Division of Water Quality Management, DEP
Division of Compliance and Enforcement, DEP
Office of Air Quality Management, DEP
Green Acres Program, DEP
New Jersey Advisory Council on Solid Waste Management
Department of Community Affairs
Department of Transportation
Department of Agriculture

The following agencies did not respond to our requests for comment:

Land Use Regulation Element, DEP
Pinelands Commission
New Jersey Turnpike Authority
Department of Health
Federal Aviation Administration
U.S. Environmental Protection Agency

The following agency provided substantive comments as shown in Section B. of the certification document:

Division of Solid and Hazardous Waste, DEP

2. Issues of Concern Regarding the July 30, 1998 Amendment

Issue: History of ACUA Landfill Research Project

On December 13, 1988, the County Freeholders adopted an amendment which proposed an interim/bypass landfill at the ACUA Environmental Park in Egg Harbor Township. On May 26, 1989, the DEP approved with modification this amendment requiring the submission of a viable bird deterrent plan for the proposed landfill. On July 25, 1989, the County adopted a subsequent amendment which outlined a bird deterrent plan for the proposed interim/bypass landfill. On September 5, 1989, the Department rejected the July 25, 1989 amendment due to the determination that the bird deterrent plan (as submitted) was not viable. The DEP did, however, state that a limited use landfill may be appropriate for the site. On October 24, 1989 and November 14, 1989, the County adopted subsequent amendments which designated a limited use landfill for waste types 13 and 27 (bulky waste and dry industrial waste, respectively) at the ACUA Environmental Park in Egg Harbor Township. The Department approved the limited use landfill designation on April 30, 1990.

On March 8, 1997 and May 8, 1997, the Department received requests,

with accompanying documentation, from the ACUA for a research, development, and demonstration project for the night landfilling of municipal (type 10) solid waste at the ACUA limited use landfill. On October 8, 1997, the DEP issued to the ACUA a Certificate of Authority to Operate (CAO) a research, development, and demonstration project at the limited use landfill. The COA authorized the ACUA to landfill 100 tons per day of municipal waste at night for research purposes to demonstrate that birds will not be attracted to the night activity. On December 16, 1997, the Department issued a subsequent COA which allowed the ACUA to increase the daily tonnage to 300 tons. Both of these COA's expired on October 7, 1998. On September 17, 1998, the Department issued another COA which extends the research, development, and demonstration project until September 16, 1999 and increases the maximum amount of type 10 solid waste that may be landfilled to 800 tons per day and not to exceed 3,600 tons per week.

The July 30, 1998 amendment memorializes the research, development, and demonstration project time extension and tonnage increase within the County Plan. Originally, the County Freeholders were considering a long-term proposal for the night landfilling operation at the ACUA landfill. However, after receiving substantive adverse comments concerning the long-term proposal at the amendment public hearing held on July 28, 1998, the Freeholder Board decided to only extend the research project for another year so that more information concerning the viability of the bird deterrent plan could be compiled. Therefore, within Section C. of this certification, the County Plan inclusion of a one year extension and tonnage expansion of the bird deterrent plan research, development, and demonstration project at the ACUA landfill in Egg Harbor Township is approved. Any continuation of night landfilling of municipal solid waste beyond that date will require adoption of a subsequent amendment.

Issue: Regulatory Requirements

If any operation of a landfill will discharge pollutants as defined in N.J.A.C. 7:14-1.9, said operation must secure a New Jersey Pollutant Discharge Elimination System Permit and/or a Treatment Works Approval for pollutant discharges prior to operation.

Landfills are subject to the provisions of N.J.A.C. 7:27-5; "Prohibition of Air Pollution." This regulation prohibits the release of odors and other air contaminants which interfere with the enjoyment of life and property.

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 July 30, 1998 amendment to the approved County Plan and certify to the County Freeholders that the July 30, 1998 amendment is approved as further specified below.

The County Plan inclusion of a one year extension and tonnage expansion of the bird deterrent plan research, development, and demonstration project at the ACUA landfill in Egg Harbor Township, Atlantic County is approved. Specifically, the ACUA is authorized to continue to operate this project according to the provisions of the September 17, 1998 Certificate of Authority to Operate which provides for night landfilling of type 10 municipal solid waste up to 800 tons per day and not to exceed a total of 3,600 tons per week until September 16, 1999. Any continuation of night landfilling of municipal solid waste beyond that date will require adoption of a subsequent amendment.

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 Plan

The provisions of the District 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 including waste types 10, 13, 23, 25, and 27 and all applicable subcategories and shall not apply to liquid and hazardous waste. All nonhazardous materials separated at the point of generation for sale or reuse are subject to regulation pursuant to N.J.A.C. 7:26A-1 et seq.

4. Certification to Proceed with Implementation of the 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, -2.13, and N.J.A.C. 7:26A-1.3.

6. Effective Date of the Amendment

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

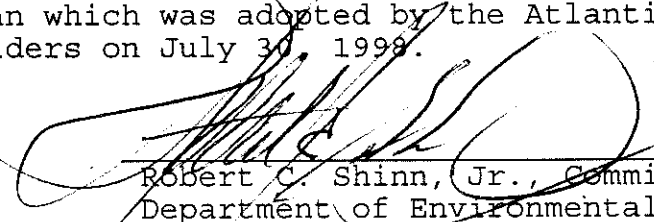
7. Reservation of Authority

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, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the Department, and also includes the compilation of individual district plans and amendments as they are approved.

E. Certification of Approval of the Amendment by the Commissioner of the Department of Environmental Protection

In accordance with the requirements of N.J.S.A. 13:1E-1 et seq., I hereby approve 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 July 30, 1998.

1/4/99
Date


Robert C. Shinn, Jr., Commissioner
Department of Environmental Protection