



State of New Jersey

Christine Todd Whitman
Governor

Department of Environmental Protection

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 OCTOBER 17, 1995
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, which sites may be in the district or, if none are available, in another district. (The Act provides procedures for reaching any necessary interdistrict agreements.)

The Act further provides that a district may review its County Plan at any time and, if found inadequate, a new County Plan must be adopted. The Atlantic County Board of Chosen Freeholders (County Freeholders) completed such a review and on October 17, 1995, adopted an amendment to its approved County Plan.

The amendment includes Cifaloglio, Inc. located in Buena Vista Township as a recycling center for Class A and Class B materials, as a composting facility for leaves and grass clippings, and as a facility to receive, store and transfer (but not process) creosote and pressure treated wood.

The amendment was received by the Department on November 22, 1995 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 October 17, 1995, 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 October 17, 1995 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 and the applicant are notified of the issues of concern relative to the October 17, 1995 amendment which are included in Section B.2. below.

In conjunction with the review of the amendment, the Department circulated copies to sixteen federal and state 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. All agencies contacted are as follows:

- Division of Parks and Forestry, DEP
- Division of Fish, Game and Wildlife, DEP
- Division of Solid and Hazardous Waste, DEP
- Division of Enforcement, DEP
- Division of Water Quality, 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
- Department of Agriculture
- Department of Health
- Department of Transportation
- Department of Community Affairs

Pinelands Commission
U.S. Environmental Protection Agency

1. Agency Participation in the Review of the October 17, 1995 Amendment

The following agencies did not object to the proposed amendment:

Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Division of Enforcement, DEP
New Jersey Turnpike Authority
Department of Agriculture
Department of Transportation
Department of Community Affairs

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

Office of Air Quality Management, DEP
Division of Water Quality, DEP
Green Acres Program, DEP
Land Use Regulation Element, DEP
Department of Health
U.S. Environmental Protection Agency

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

Division of Solid and Hazardous Waste, DEP
New Jersey Advisory Council on Solid Waste Management
Pinelands Commission

2. Issues of Concern Regarding the October 17, 1995 Amendment

Issue: Permitting Requirements for Recycling Centers

Recycling centers are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution." This regulation prohibits odors and other air contaminants which interfere with the enjoyment of life and property. Also, recycling centers are subject to the provisions of N.J.A.C. 7:26A-1 et seq. which includes but is not limited to operational standards and general rules for recycling centers which receive, store, process, or transfer Class A and Class B materials.

If any operation of a recycling center 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 pollution discharges prior to operation.

Cifaloglio, Inc. operates a permitted transfer station at the site

in Buena Vista Township. Due to increased truck traffic resulting from expanded operations at the site, Cifaloglio, Inc. should conduct a new truck traffic analysis of all solid waste vehicles, including those transporting various recyclables, compostable materials, and creosoted wood, entering and exiting the facility from the main entrance on Route 54.

With respect to the provision of the amendment which states that "to accept deliveries of solid waste from private, commercial and municipal vehicles", Cifaloglio, Inc. is advised that it must obtain a Certificate of Public Convenience and Necessity from the Department to allow private and commercial vehicles to deliver solid waste to the facility.

Issue: Periodic Capacity Averaging

The Cifaloglio, Inc. Transfer Station was previously included within the County Plan in an amendment dated December 16, 1986 which was certified by the Department on June 5, 1987. The facility is currently permitted by the Department to accept 95 tons per day. The October 17, 1995 amendment contains a discussion on periodic capacity averaging. Although solid waste facilities may be permitted at specific capacities, in actuality the amount of material delivered to these facilities is dependent on a number of outside factors that are beyond the control of the individual businesses. Among these outside influences are weather, seasonal population fluctuations, contractor work schedules, availability of transportation/demolition equipment, and labor union contracts, to identify but a few. As a result of these and other factors, the rate of delivery of materials at solid waste facilities is best represented as a series of peaks and valleys with undetermined frequency rather than a steady and constant stream. Therefore, to allow the necessary flexibility to serve the public need for convenient transfer station operations, Cifaloglio, Inc. has requested a daily capacity average not to exceed 142.5 tons with a weekly capacity average not to exceed 570 tons.

The New Jersey Advisory Council on Solid Waste Management submitted extensive comments relative to the capacity averaging issue for this facility. While the amendment did not specifically note that the capacity averaging issue only pertained to the transfer station, the DEP contacted the County Solid Waste Coordinator and received verification of same. Therefore, the Council's comments which questioned how an operation which proposes the acceptance of 350,000 tons annually could be restricted to a weekly averaging of 570 tons are no longer relevant when one realizes that capacity averaging did not pertain to the operation of the proposed recycling centers but only to the existing transfer station.

Issue: Pinelands Comprehensive Management Plan

The existing Cifaloglio, Inc. transfer station is located in a

Rural Development Area. For purposes of conformance with the Pinelands Comprehensive Management Plan (CMP), this operating facility is a permitted use in the management area provided that all waste accepted is either from Pinelands municipalities or from counties with at least 50% of their land area within the Pinelands (N.J.A.C. 7:50-6.76). As long as the expanded operations satisfy the same criteria, the plan amendment should be consistent with current standards of the CMP. However, it should be noted that amendments to the CMP would permit the activities proposed in the amendment only through the execution of a Memorandum of Agreement among the Commission, Buena Vista Township, Atlantic County, and the DEP (N.J.A.C. 7:50-6.80(b)). These amendments will likely become effective in late May or early June 1996.

Also, the provisions of N.J.A.C. 7:50-4.1 et seq. require that an application for development be submitted to the Pinelands Commission before the proposed operations may begin. The application is necessary to determine whether the development is consistent with the current standards of N.J.A.C. 7:50-6.1 et seq.

However, it must be noted by the DEP that it continues to be the Department's position that the CMP should not prohibit recycling centers in the same way it prohibits solid waste disposal facilities. In this regard, it must also be noted that the aforementioned amendments to the CMP, while continuing to consider a recycling center to be a waste management facility, will not impose upon recycling centers the restriction that all materials accepted be from either Pinelands municipalities or counties with at least 50% of their land area within the Pinelands.

Issue: Acceptance of Chemically Treated Wood

On December 29, 1993, the Department issued a "Decision on Request for Interpretation in the Matter of Managing Chemically Treated Wood Scrap through Incineration and Energy Recovery." This policy specified that chemically (creosote) treated wood is exempt from the Interdistrict and Intradistrict Solid Waste Flow Rules (N.J.A.C. 7:26-6) if it is destined for incineration with resource recovery, the incinerator is authorized to accept wood as fuel by the state in which it is located, the material is transported by a DEP licensed solid waste transporter and is accompanied by a DEP approved waste origin/waste disposal form. Therefore, if the outlet for the chemically treated wood to be accepted by the Cifaloglio Inc. recycling center is a power generating incinerator, the above noted conditions must be followed. If, however, bonafide recycling markets are identified for the chemically treated wood, transportation need not be via a DEP licensed solid waste transporter. Regardless of the final end use, the applicant may only accept chemically treated wood for transferring purposes and may not engage in any on-site processing. The acceptance and use/marketing of chemically treated wood by Cifaloglio, Inc. will be further addressed during the DEP's technical review process when

considering an addendum to the existing Cifaloglio, Inc. Transfer Station permit.

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 October 17, 1995 amendment to the approved County Plan and certify to the County Freeholders that the October 17, 1995 amendment is approved as further specified below.

The County Plan inclusion of Cifaloglio, Inc. located in Buena Vista Township at Block 606, Lot 1, Block 607, Lot 1, and Block 608, Lot 1 as a recycling center for Class A and Class B materials, as a composting facility for leaves and grass clippings, and as a facility to receive, store and transfer creosote and pressure treated wood is approved. In addition, the facility is approved to accept the following materials at the specified capacities for each of the planned operations:

1. Compost Facility

Authorized to receive, store, and compost 15,000 tons per year of leaves and grass clippings.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals pursuant to N.J.S.A. 13:1E-1 et seq., and all other applicable laws. The issuance of operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the Department and the Attorney General to be deserving of licensing under the provisions of N.J.S.A. 13:1E-126. This certification shall not be construed as an expression of the Department's intent to issue a solid waste facility permit for any facility or operation

2. Chemically Treated Wood

Authorized to receive 45,000 tons per year of creosote and pressure treated wood products.

The applicant shall accept such wood waste for the purpose of transferring said materials to DEP approved outlets and shall not engage in any on-site processing. If the outlet for chemically treated wood is a power generating incinerator, the applicant must abide by the conditions for such incineration identified in the Department's December 29, 1993 "Decision on Request for Interpretation in the Matter of Managing Chemically Treated Wood Scrap through Incineration and Energy Recovery."

3. Class A Recycling Center

Authorized to receive 30,000 tons per year of glass, 37,500 tons per year of metal, 30,000 tons per year of cardboard, 30,000 tons per year of paper, and 30,000 tons per year of plastic.

For recycling centers which accept only Class A recyclable materials, as defined at N.J.A.C. 7:26A-1.3, no approval from the Department is necessary prior to operation. However, these recycling centers must comply with all applicable regulations found at N.J.A.C. 7:26A, particularly N.J.A.C. 7:26A-4.

4. Class B Recycling Center

Authorized to receive 45,000 tons per year of concrete, asphalt, brick and block, 30,000 tons per year of trees and similar wood waste, 15,000 tons per year of shingles, 22,500 tons per year of wood waste other than trees, and 30,000 tons of tires.

This certification shall not be construed as an expression of the Department's intent to issue a recycling center approval to any recycling center for Class B materials. A recycling center approval shall only be granted where the applicant has submitted an administratively complete application, as per N.J.A.C. 7:26A-3.5, where all substantive criteria for approval set forth in N.J.A.C. 7:26A-3.2, 3.3, and 3.3 are satisfied, where a fee has been paid in accordance with N.J.A.C. 7:26A-2, and where none of the criteria for denial of a recycling center approval are met, as per N.J.A.C. 7:26A-11 and 12.

Pursuant to N.J.A.C. 7:26A-4.1(a)1.iii., Class A recyclable materials may be commingled only with other Class A recyclable materials. Class B recyclable materials may be commingled only with other Class B recyclable materials and only to the extent authorized in the general approval.

Any residue generated as a result of the operation of any recycling center shall be disposed of pursuant to the County Plan and the Interdistrict and Intradistrict Solid Waste Flow Rules (N.J.A.C. 7:26 et seq.).

5. Transfer Station

The County Plan inclusion of daily and weekly capacities for the existing Cifaloglio, Inc. Transfer Station is approved. Specifically, the facility which is currently permitted by the Department to accept up to 95 tons per day of solid waste may operate at maximum capacity averages of 142.5 tons per day and 570 tons per week.

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 Waste 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 waste, construction and demolition waste, sewage sludge, septage, and hazardous waste. 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. 7:26A-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, -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

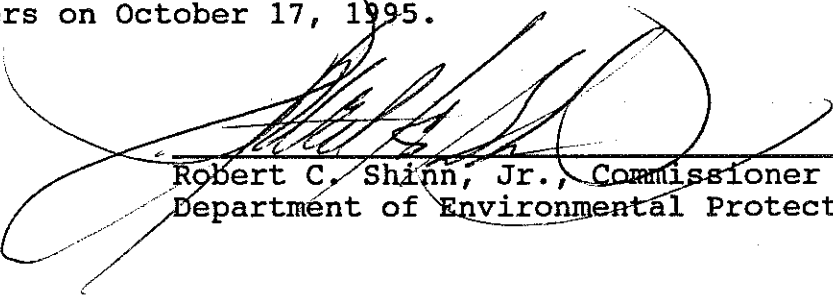
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the Department, 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 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 October 17, 1995.

Date

3/15/96


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