



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
BERGEN COUNTY SOLID WASTE
MANAGEMENT DISTRICT

CERTIFICATION OF THE
MAY 18, 1994 AMENDMENT TO
THE BERGEN 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:Le-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 October 31, 1980, the Department of Environmental Protection (Department or DEP) approved with modifications the Bergen 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 Bergen County Board of Chosen Freeholders (County Freeholders) completed such a review and on May 18, 1994, adopted an amendment to its approved County Plan. The amendment included an expansion of the operational capacity of the United Carting Transfer Station/Materials Recovery Facility located in Fairview Borough, Bergen County, for Class A and B materials from 35 tons per day (TPD) to 200 TPD.

The May 18, 1994 amendment was received by the Department on June 30, 1994 and copies were distributed to various administrative review agencies for review and comment, as required by law. The DEP has reviewed this amendment, as well as the entire County Plan, and has determined that the amendment adopted by the Bergen County Freeholders on May 18, 1994 is approved as provided in N.J.S.A. 13:1E-24. Also, serious longstanding deficiencies in the County Plan have been identified within Section C. of this certification.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the May 18, 1994 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 issue of concern relative to the May 18, 1994 amendment which is included in Section B. below.

In conjunction with the review of the amendment, the Department circulated copies to fifteen 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 as follows:

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

1. Agency Participation in the Review of the May 18, 1994 Amendment

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

Division of Parks and Forestry, DEP
Division of Solid Waste Management, DEP
Division of Fish Game and Wildlife, DEP
Green Acres Program, DEP
New Jersey Advisory Council on Solid Waste Management
New Jersey Turnpike Authority
Department of Community Affairs
Department of Agriculture
Department of Transportation
Hackensack Meadowlands Development Commission

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

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 Water Quality, DEP
Office of Air Quality Management, DEP

2. Issue of Concern Regarding the May 18, 1994 Amendment

Issue: Regulatory Requirements

If any operation of the transfer station/materials recovery facility will discharge pollutants as defined at N.J.A.C. 7:14-1.9, said operation must secure a New Jersey Pollutant Discharge Elimination System Permit and/or a Treatments Works Approval for pollutant discharges prior to operation.

Transfer stations/materials recovery facilities 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 or property. Transfer stations/materials recovery facilities are also subject to N.J.A.C. 7:27-8.2(a)16 which requires air pollution control permits for any equipment which vents a solid waste facility directly or indirectly into the outdoor atmosphere. Such vents may require devices to control odors and other air contaminants.

C. Certification of the Bergen 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 May 18, 1994 amendment to the approved County Plan and certify to the County Freeholders that the May 18, 1994 amendment is approved as further specified below.

1. May 18, 1994 Amendment

The County Plan inclusion of the United Carting Transfer Station/Materials Recovery Facility located on Lot 8, Block 501, 61 Broad Avenue, in Fairview Borough from 35 TPD to 200 TPD to process Class A and B recyclables is approved. Consistent with this approval, the total operational capacity of the facility is increased to 800 TPD from 600 TPD (which included 35 TPD of recyclables).

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

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 DEP and the Attorney General of the State of New Jersey to be deserving of licensing under the provisions of N.J.S.A. 13:1E-126.

Any residue generated as a result of the operation of this transfer station/materials recovery facility 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.).

This certification shall not be construed as an expression of the Department's intent to issue a solid waste facility permit for any proposed facility or operation.

2. Bergen County District Solid Waste Management Plan Deficiencies

The County is again reminded that the DEP's December 22, 1993 certification detailed deficiencies that the County was required to address by March 31, 1994 in a subsequent plan amendment submission. These deficiencies included the need for the County to address its long-term solid waste management plan for in-state disposal of its entire waste stream, to identify truck routes to existing and proposed solid waste facilities within the County, and

to describe a method of financing long-term solid waste management. The County is also reminded that it was required to submit a plan amendment by November 24, 1993 which further addressed various components of the County's source reduction, recycling, and regionalization initiatives as noted in the Department's May 28, 1993 certification.

Additionally, in the DEP's December 22, 1993 certification, the County was directed to provide Bergen's short-term disposal plan and contracts regarding utilization of the Union County Resource Recovery Facility and out-of-state disposal. While the County's February 2, 1994 amendment certified on May 18, 1994 addressed the latter two deficiencies, the remaining longstanding deficiencies must still be addressed. Although it is the Department's understanding that Bergen County is currently in the process of adopting a plan amendment to address these deficiencies, it is imperative that the County adopt and submit the amendment as soon as possible. Regarding these deficiencies, the County must pursue all available options including developing in-county capacity or reaching interdistrict agreements with neighboring counties to achieve the State's goal of self-sufficiency by December 31, 1999 for the approximately 400,000 tons exported annually.

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. 7:26A-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.

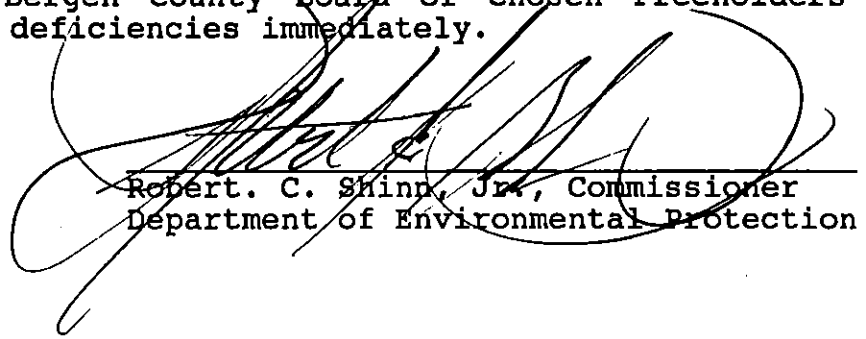
7. Reservation of Authority

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 and Notification of Deficiencies 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 Bergen County District Solid Waste Management Plan which was adopted by the Bergen County Board of Chosen Freeholders on May 18, 1994. I hereby also require, as noted in Section C., the Bergen County Board of Chosen Freeholders to address the noted deficiencies immediately.

9/19/94
Date



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