



State of New Jersey

Department of Environmental Protection

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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 JUNE 19, 1996
AMENDMENTS 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. 13:1E-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 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 June 19, 1996, adopted two amendments to its approved County Plan.

Amendment 96-17 proposed County Plan inclusion of an expansion of the existing BFI Transfer Systems of New Jersey, Inc. transfer station/materials recovery facility located in Fairview Borough, Bergen County. Amendment 96-18 proposed County Plan inclusion of the Newark Recycling and Composting Company compost facility located in the City of Newark, Essex County as a source separated organic recyclable material facility/market for Bergen County.

The June 19, 1996 amendments were received by the Department on July 26, 1996 and copies were distributed to various administrative review agencies for review and comment, as required by law. The DEP has reviewed these amendments and has determined that the amendments adopted by the County Freeholders on June 19, 1996 are approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the June 19, 1996 amendments 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 these plan amendments are consistent with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders and the applicants are notified of the issues of concern relative to the June 19, 1996 amendments which are included in Sections B.2. and B.3. below.

In conjunction with the review of these amendments, 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 Water Quality, DEP
 Division of Enforcement, DEP
 Division of Solid and Hazardous Waste, DEP
 Green Acres Program, DEP
 Office of Air Quality Management, 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
U.S. Environmental Protection Agency
Hackensack Meadowlands Development Commission

1. Agency Participation in the Review of the June 19, 1996 Amendments

The following agencies did not object to the proposed amendments:

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

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

Office of Air Quality Management, DEP
Green Acres Program, DEP
Land Use Regulation Element, DEP
Department of Health
New Jersey Advisory Council on Solid Waste Management
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
Division of Water Quality, DEP

2. Issues of Concern Regarding Amendment 96-17

Issue: Regulatory Requirements

If any operation of a transfer station/materials recovery facility 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.

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 the release of odors and other air contaminants which interfere with the enjoyment of life and property. Also, transfer stations/materials recovery facilities are subject to the regulations set forth at N.J.A.C. 7:26-8.2(a)16 which requires air pollution control permits for any equipment which vents a solid waste facility directly or indirectly into the

outdoor atmosphere.

Issue: Legal Requirements

Amendment 96-03 adopted by the County Freeholders on February 21, 1996 established a policy for deleting noncompliant transfer stations from the County Plan. The Department, in its certification of August 9, 1996, approved with modification the amendment by stating that "Any solid waste facility heretofore included with the Bergen County Plan which operates in violation of, and for which revocation would be warranted, the Bergen County Plan, the Statewide Solid Waste Management Plan, the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq., the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and/or the rules and regulations which implement those statutes shall be proposed for deletion via an amendment of the Bergen County Plan upon final order of the Department or the Superior Court of New Jersey." Since the June 19, 1996 amendment contains the same deletion policy for noncompliant transfer stations as articulated in Amendment 96-03, Section C. of this certification notes that the BFI Transfer Systems of New Jersey, Inc. transfer station/materials recovery facility shall only be deleted from the County Plan pursuant to the above noted requirements which were incorporated within the Bergen County Plan in the DEP's August 9, 1996 certification to said plan.

3. Issue of Concern Regarding Amendment 96-18

Issue: Planning Requirements

While Amendment 96-18 proposes the use of the Newark Recycling and Composting Company compost facility for source separated organic recyclable material generated within the Bergen County, it must be noted that while an application for the inclusion of this facility within the Essex County Plan was apparently made in March 1996, to date the facility has not been formally included within the Essex County Plan. Therefore, as noted in Section C., this facility can not be utilized by Bergen County generators until it is formally included within the Essex County Plan and subsequently permitted by the Department.

C. Certification of the Bergen County District Solid Waste Management Plan Amendments

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 June 19, 1996 amendments to the approved County Plan and certify to the County Freeholders that the June 19, 1996 amendments are approved as further specified below.

1. Amendment 96-17

The County Plan inclusion of a site expansion to the existing BFI Transfer Systems of New Jersey, Inc. transfer station/materials recovery facility located in Fairview Borough, Bergen County onto Block 501, Lot 7 is approved. The existing facility is currently located at 61 Broad Avenue, Block 501, Lot 8.

Any solid waste facility heretofore included with the Bergen County Plan which operates in violation of, and for which revocation would be warranted, the Bergen County Plan, the Statewide Solid Waste Management Plan, the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq., the New Jersey Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and/or the rules and regulations which implement those statutes shall be proposed for deletion via an amendment of the Bergen County Plan upon final order of the Department or the Superior Court of New Jersey.

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. 7:26-6).

The applicant must apply to the Department for a modification of its solid waste facility permit to authorize site expansion. This certification shall not be construed as an expression of the DEP's intent to issue a solid waste facility permit modification for any proposed facility or operation.

2. Amendment 96-18

The County Plan inclusion within the Bergen County Plan of the Newark Recycling and Composting Company compost facility located in the City of Newark, Essex County as a source separated organic recyclable materials facility/market for Bergen County is approved. For the purposes of this amendment source separated organic recyclable material shall be defined as food waste and soiled paper waste. However, as noted in Section B., this facility can not be utilized by Bergen County generators until it is formally included within the Essex County Plan and subsequently permitted by the Department.

D. Other Provisions Affecting the Plan Amendments**1. Contracts**

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with these amendments to the County Plan and which was executed prior to the approval of these amendments 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 these amendments and of the County Plan if such renegotiation is not completed within ninety (90) days of the effective date of these amendments 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 amendments contained herein shall operate in compliance with these amendments 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 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. 7:26-6, but are subject to regulation in accordance with N.J.A.C. 7:26A-1 et seq.

4. Certification to Proceed with the Implementation of the Plan Amendments

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 amendments certified herein.

5. Definitions

For the purpose of these amendments 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 Amendments

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

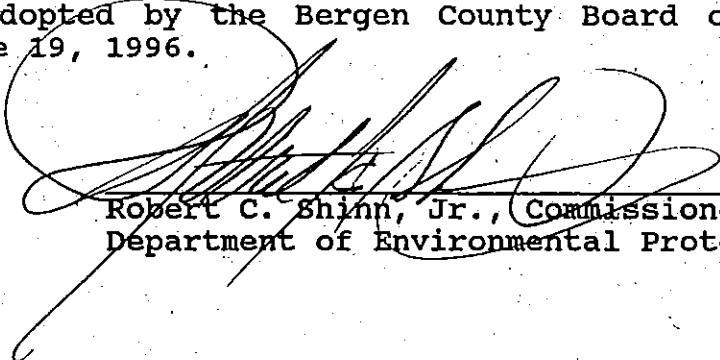
7. Reservation of Authority

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 Amendments 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 amendments, as outlined in Section C. of this certification, to the Bergen County District Solid Waste Management Plan which were adopted by the Bergen County Board of Chosen Freeholders on June 19, 1996.

10/9/96
Date


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