



State of New Jersey
Department of Environmental Protection and Energy

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 OCTOBER 6, 1993
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. 13:1E-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 and Energy approved 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 October 6, 1993, adopted an amendment to its approved County Plan. The amendment includes the terms and conditions of the amended and restated interdistrict agreement, signed September 2, 1993, between the Bergen County Utilities Authority and the Union County Utilities Authority which directs 192,000 tons per year of Bergen County processible waste to the Union County incinerator for a period of approximately 20 years. The amendment also provides additional information regarding waste flows, transportation routes, financial obligations and funding mechanisms.

The amendment was received by the Department of Environmental Protection and Energy (Department or DEPE) on November 12, 1993 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 6, 1993 is approved in part and modified in part 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 Amendment

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the October 6, 1993 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, as modified, is consistent with the Statewide Solid Waste Management Plan. In this regard, the Bergen County Freeholders are notified of the issues of concern relative to the October 6, 1993 amendment which are included below in Section B.2.

In conjunction with the review of the amendment, the Department circulated copies to sixteen 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 the following:

Office of Air Quality Management, DEPE
Division of Parks and Forestry, DEPE
Division of Fish, Game and Wildlife, DEPE
Division of Solid Waste Management, DEPE
Green Acres Program, DEPE
Land Use Regulation Element, DEPE
Wastewater Facilities Regulation Element, DEPE
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

Department of the Public Advocate
U.S. Environmental Protection Agency
Hackensack Meadowlands Development Commission

1. Agency Participation in the Review of the October 6, 1993 Amendment

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

Division of Parks and Forestry, DEPE
Department of Agriculture
Department of Transportation
Green Acres Program, DEPE
Wastewater Facilities Regulation Element, DEPE
New Jersey Turnpike Authority
Hackensack Meadowlands Development Commission

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

Office of Air Quality Management, DEPE
Land Use Regulation Element, DEPE
Division of Fish, Game and Wildlife, DEPE
New Jersey Advisory Council on Solid Waste Management
Department of Health
Department of Community Affairs
Department of the Public Advocate
U.S. Environmental Protection Agency

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

Division of Solid Waste Management, DEPE

2. Issues of Concern Regarding the October 6, 1993 Amendment

Issue: Permit Requirements

According to the proposed amendment, processible solid waste types 10, 23, and 27 generated within Bergen County which meet the definition of acceptable waste and are consistent with Department permits for the Union County incinerator are directed to the incinerator. However, it is noted that the solid waste facility permit will be modified to exclude ID type 23 waste from the facility in accordance with the Department air permit which prohibits this waste from being burned at the facility. Also, ID 27 solid waste cannot be delivered to the Union incinerator until it is documented that Bergen County has performed an ID 27 waste survey.

Further, the Department issued an Emergency Redirection Order on February 4, 1994, which directed a total of 192,000 tons per year of processible waste type 10 generated from within Bergen County and processed at authorized transfer stations, consistent with the

Bergen County Plan, to the Union County incinerator. Therefore, as noted in Section C. of the certification, that portion of the amendment which includes specific waste flows from Bergen County to the incinerator is modified to be consistent with the emergency redirection order issued on February 4, 1994 and the Department's permit conditions for the incinerator.

Finally, Bergen County must ensure that an approved waste separation plan is in place at the authorized transfer station facilities which process waste prior to any transport of this material to the Union incinerator.

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 October 6, 1993 amendment to the approved County Plan and certify to the County Freeholders that the October 6, 1993 amendment is approved in part and modified in part as further specified below.

1. **Interdistrict Agreement**

The County Plan inclusion of the interdistrict agreement between the Bergen County Utilities Authority and the Union County Utilities Authority which directs 192,000 tons per year of Bergen County processible waste to the Union County incinerator for a period of approximately 20 years is approved. The interdistrict agreement has also been included within the Union County Plan in an amendment adopted on December 8, 1993. This amendment is under Departmental review and will be the subject of a subsequent certification.

2. **Waste Flows**

The County Plan inclusion of the Bergen County waste flow to the Union County incinerator is approved with modification. As noted in Section B., the amendment specifies that processible solid waste types 10, 23, and 27 generated within Bergen County which meet the definition of acceptable waste and are consistent with Department permits for the Union County incinerator are directed to the facility. Since the solid waste facility permit for the incinerator will be modified to exclude type 23 waste from the facility, in accordance with the DEPE air permit which prohibits these wastes from being burned at the facility, and ID 27 solid waste cannot be delivered to the Union incinerator until it is documented that Bergen County has performed an ID 27 waste survey, the waste flows to the incinerator must be modified accordingly to be consistent with Department permits and waste flow directives. In this regard, the Department issued an Emergency Redirection

Order on February 4, 1994, which directed a total of 192,000 tons per year of processible waste type 10 generated from within Bergen County and processed at authorized transfer stations, consistent with the Bergen County Plan, to the Union County incinerator. Also, Bergen County must ensure that an approved waste separation plan is in place at the authorized transfer station facilities which process waste prior to any transport of this material to the Union incinerator. Finally, pursuant to N.J.A.C. 7:26-6.6, the DEPE will initiate as soon as possible formal rulemaking procedures to embody the waste flow change within N.J.A.C. 7:26-6.5(b).

3. Transportation Routes

The County Plan inclusion of the major haul routes from designated county planning areas relative to the authorized transfer station facilities in Bergen County as detailed on pages 4 through 7 of the October 6, 1993 plan amendment, is approved.

4. Financial Obligations and Funding Mechanisms

The County Plan inclusion of the County's method of providing for financial obligations and funding mechanisms for solid waste processing services, subject to the rate regulation authority of the DEPE, is approved.

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, as modified, 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, as modified, to the County Plan contained herein shall take effect immediately.

7. **Reservation of Authority**

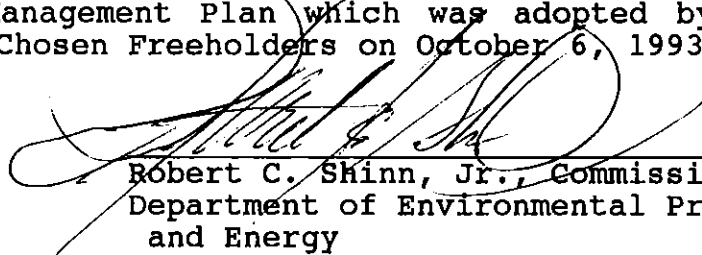
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's 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 in Part and Modification in Part of the Amendment by the Commissioner of the Department of Environmental Protection and Energy.

In accordance with the requirements of N.J.S.A. 13:1E-1 et seq. I hereby approve in part and modify in part 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 October 6, 1993.

Date

4/9/94



Robert C. Skinn, Jr., Commissioner
Department of Environmental Protection
and Energy