



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 DECEMBER 15, 1993 AND
FEBRUARY 2, 1994 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 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 December 15, 1993 and February 2, 1994, adopted amendments to its approved County Plan. The December 15, 1993 amendment includes a capacity expansion and waste type revision for the DiBella Sanitation Service Inc., Transfer Station, located in Park Ridge, New Jersey. Specifically, this facility would accept waste types 10, 13, 23, and 27 up to a maximum facility capacity of 500 tons per day. The February 2, 1994 amendment addresses Bergen County's solid waste management strategy, particularly the selection of the DiBella, Garofalo, and United Carting Transfer Stations to process waste in conjunction with the Bergen County Utilities Authority (BCUA) Transfer Station and Chambers Development Company, Inc. contract for transportation and disposal at the Union County Resource Recovery Facility (UCRRF) and out-of-state landfills, respectively, after March 1, 1994. The February 2, 1994 amendment also includes a conceptual rate regulation system and battery management program.

The December 15, 1993 and February 2, 1994 amendments were received by the Department of Environmental Protection and Energy (Department or DEPE) on December 28, 1993 and February 22, 1994, respectively, and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed these amendments, as well as the entire County Plan, and has determined that the amendments adopted by the County Freeholders on December 15, 1993 and February 2, 1994 are approved in part and modified in part 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 Amendments

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the December 15, 1993 and February 2, 1994 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, as modified, are 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 December 15, 1993 and February 2, 1994 amendments which are included in Sections B.2 and B.3, respectively, below.

In conjunction with the review of the amendments, 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 December 15, 1993 and February 2, 1994 Amendments

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

Office of Air Quality Management, DEPE
Division of Parks and Forestry, DEPE
Division of Fish, Game and Wildlife, DEPE
Wastewater Facilities Regulation Element, DEPE
Green Acres Program, DEPE
Land Use Regulation Element, DEPE
New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management
Department of Agriculture
Department of Transportation
Department of Community Affairs
Hackensack Meadowlands Development Commission

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

Department of Health
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 Relative to the December 15, 1993 Amendment

Issue: Site Location

The plan amendment indicates that the site for the DiBella Transfer

Station is on Block 1802, Lots 5, 6, and 7. It is noted, however, that the actual site location described in the pending DEPE solid waste facility permit application for the capacity expansion is Block 1801, Lot 5, and Block 1802, Lots 6 and 7. Upon review of the subject amendment, the County was contacted about the discrepancy and indicated in a letter dated March 15, 1994 that the site designation was a clerical error and the blocks and lots identified in the facility application are correct. Therefore, as noted in Section C., the inclusion of the facility within the County Plan is approved with modification to reflect the correct site location at Block 1801, Lot 5 and Block 1802, Lots 6 and 7.

Issue: Permit Requirements

Transfer stations 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 enjoyment of life or property. Transfer stations 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.

3. Issues of Concern Regarding the February 2, 1994 Amendment

Issue: Waste Flow

On October 6, 1993 the County adopted a plan amendment to include an interdistrict agreement between Bergen and Union counties to send a portion of Bergen County's processible solid waste to the UCRRF. Similarly, on December 8, 1993 Union County adopted an amendment to include the subject interdistrict agreement within its County Plan. Further, on February 4, 1994, an Emergency Redirection Order (ERO) was issued by the Department to send 192,000 tons per year of processible type 10 solid waste generated within Bergen County and processed at authorized transfer station facilities to the UCRRF. The February 2, 1994 amendment is consistent with the ERO as well as the October 6, 1993 amendment by designating, as authorized transfer stations, the DiBella, Garofalo and United Carting transfer stations in conjunction with the BCUA transfer station and Chambers Development Company to process, transport and dispose of Bergen County's solid waste at the UCRRF and out-of-state landfills, respectively, after March 1, 1994.

Issue: Solid Waste System

The amendment includes the DiBella, Garofalo and United Carting Transfer Stations within the County Plan to process solid waste. As such, these three transfer stations will be operating as materials recovery facilities. The United Carting Transfer Station was included within the County Plan as a transfer station/materials recovery facility in the amendment of September 25, 1991 which was

certified on January 28, 1992. However, the DiBella and Garofalo Transfer Stations have not been formally included within the County Plan as materials recovery facilities. To ensure that these two facilities are operating in accordance with the above noted ERO of February 4, 1994, Section C. of this certification approves with modification the inclusion of the DiBella and Garofalo Transfer Stations within the County Plan to reflect their designation as materials recovery facilities. To maintain the integrity of the County Plan, these two transfer stations should be included within the County Plan as materials recovery facilities in a subsequent plan amendment. Finally, the amendment also directs all other transfer stations located within the County to perform recycling operations. This action unilaterally directs these facilities to modify their respective solid waste facility permits to reflect recycling operations. The County, when contacted by the DEPE, stated in a letter of February 3, 1994 that, although they encourage transfer stations to perform recycling operations, it was not their intent to require these permit modifications.

Issue: System Rate Structure

The proposed amendment addresses the inclusion of a discounted solid waste type 10 transfer tipping rate to the private transfer stations in Bergen County which deliver waste to the BCUA transfer station or one of the three authorized transfer station facilities. The Solid Waste Management Act, N.J.S.A. 13:1E-21, specifically identifies the required components of a solid waste management plan. Rate setting procedures are not specific to this act but, instead, are established under the Solid Waste Utility Control Act, N.J.S.A. 48:13A-4. While the DEPE is willing to consider a discounted rate setting procedure, this action is not within the purview of the County planning program and must be reviewed pursuant to the Solid Waste Utility Control Act. Therefore, there is no need for the Department to certify its approval, rejection, or modification of this provision of the February 2, 1994 amendment.

Issue: Diminimus Residue and Contaminant Levels

The proposed amendment states that for the purposes of ascertaining compliance with all DEPE orders, rules, requirements as well as the County Plan, diminimus levels as it relates to both residue and contaminants shall be defined as less than 5% solid waste by weight. That is, a source separated load of recyclable materials may contain up to 5% solid waste (contaminants) and a load of recyclable material resulting from a material recovery facility/transfer station may contain up to 5% solid waste (residue). The DEPE has established a diminimus acceptance threshold for both contaminants and residue of 1%. Therefore, as noted in Section C., the certification approves with modification the County diminimus level to be consistent with DEPE policy. The Department is aware that the 1% residue figure is controversial and

is viewed by some parties as overly restrictive. To address this issue toward potential modification of this standard in the future, the DEPE will be soliciting comments through a "preproposal" to appear by September in the New Jersey Register. However, the Bergen County amendment must be modified at this time to insure consistency with over 50 Class B Recycling Center approvals issued statewide containing the 1% diminimus value.

Issue: Battery Management Program

The amendment describes a battery management program to remove batteries from the waste stream to ensure the delivery of acceptable waste to the UCRRF consistent with the BCUA/UCUA interdistrict agreement. Specifically, commencing March 1, 1994 all household generated batteries are included in the County Plan as a designated recyclable material. All batteries collected by a municipality, with the exception of lead acid batteries, may be delivered free of charge to any BCUA sponsored Household Hazardous Waste Collection Program for proper disposal in accordance with BCUA guidelines. Also, the BCUA in cooperation with the Portable Rechargeable Battery Association (PBRA) is developing a public education program which includes the dissemination of names of retail establishments located throughout the County that are participating in the battery collection program and will provide technical assistance to commercial/industrial establishments and hospitals in the County for collection of those batteries not managed by the PBRA program. Under the PRBA program approved by the DEPE, if the County serves as a collection point for these batteries, they can be managed under the PRBA program at PRBA's cost.

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 December 15, 1993 and February 2, 1994 amendments to the approved County Plan and certify to the County Freeholders that the December 15, 1993 and February 2, 1994 amendments are approved in part and modified in part as further specified below.

1. December 15, 1993 Amendment

The County Plan inclusion of the capacity expansion and waste type revision for the DiBella Sanitation Services Inc., Transfer Station, located at 144 Kinderkamack Road, Park Ridge, Bergen County, at Block 1801, Lot 5 and Block 1802, Lots 6 and 7 to accept waste types 10, 13, 23, and 27, up to a maximum capacity of 500 tons per day, is approved with modification to reflect the correct site location. As noted in Section B., the County has indicated that the proposed amendment includes an incorrect block and lot

description for the site and that the above noted and approved block and lot for the facility is the actual location intended for inclusion in the County Plan.

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

Further, this certification shall not be construed as an expression of the DEPE's intent to issue a solid waste facility permit for the expansion of and revision of acceptable waste types to be received at the transfer station.

2. February 2, 1994 Amendment

a. Solid Waste System

The County Plan inclusion of the Bergen County solid waste management strategy regarding the selection of the DiBella, Garofalo, and United Carting Transfer Stations as authorized facilities to process waste in conjunction with the BCUA Transfer Station and Chambers Development Company, Inc. contract for transportation and disposal at the UCRRF and out-of-state landfills, respectively, after March 1, 1994 is approved with modification. As noted in Section B. and to be consistent with the Department's ERO of February 4, 1994, the DiBella and Garofalo Transfer Stations are hereby included within the County plan as materials recovery facilities to enable the processing of solid waste. Finally, according to the amendment, the Chambers contract is initially for a period of 3 years (or until February 28, 1997) with a 2 year renewal option, while the contracts with the private transfer stations are for a period of 5 years (or until February 28, 1999).

b. Battery Management Program

The County Plan inclusion of the battery management program to remove batteries from the waste stream in order to deliver acceptable waste to the UCRRF consistent with the BCUA/UCUA amended interdistrict agreement is approved. Included within this approval is the designation of household batteries as a mandated recyclable. Under the PRBA plan as approved by the Department, if the County serves as a collection point for these batteries, they can be managed under the PRBA program at PRBA's cost.

The Department has also reviewed the County Plan focusing upon the Bergen/Union interdistrict agreement calling for the delivery of

192,000 tons per year of processible waste at the UCRRF and the need to remove additional constituents from the incoming waste stream to ensure a reduction in facility emissions; in particular mercury. The Department is committed to the use of best available air pollution controls at existing facilities, as well as the application of the most stringent standards within permits. The Department, as part of the "Task Force on Mercury Emissions Standard Setting" (Mercury Task Force), is currently working toward development of a statewide mercury emission standard for municipal solid waste incinerators, involving both air quality control technologies and identification and implementation of specific measures to reduce the content of mercury in the solid waste stream. The Mercury Task Force completed its preliminary report, which includes an evaluation of both environmental and health issues and technical and regulatory issues, in August 1992 and distributed this document for public comment through November 1992. A public hearing on the preliminary report was held on October 26, 1992. The Department published the findings and recommendations of the Mercury Task Force in the final report on proposed mercury standards in July 1993. A public hearing on proposed regulations implementing the mercury standards was held on March 29, 1994. Following the review of the comments received at the public hearing, the Department expects to issue a final proposed rule implementing the proposed mercury standards by summer 1994. The Department will continue to work closely with incinerator operators to have system modifications installed to implement use of best available control technology.

The County planning process must complement the future installation of more advanced air pollution control equipment and intended permit modifications to ensure necessary reductions in mercury from the solid waste stream. As a result of the efforts of the Mercury Task Force and the referenced public hearing process, the Department, on February 22, 1994, has proposed in the New Jersey Register an interim (by 1995) and final (by 2000) mercury emission standard for municipal solid waste incinerators of 65 and 28 mg/dscm, respectively, and/or an 80% removal. From the Mercury Task Force's technical research, available air pollution control equipment can result in significant reductions (up to 80%) of mercury based upon current emission levels. A portion of this emission standard will be achieved through source reduction programs as manufacturer's redesign their products to eliminate or minimize mercury content. Source separation programs will also remove mercury from the processible waste stream. Therefore, in order to fully achieve interim (by 1995) and final (by 2000) standards of 65 and 28 mg/dscm, respectively, it will be necessary for counties that dispose of solid waste in incinerators to develop plans and schedules for the removal of sources of mercury from the waste stream. This is necessary in Bergen County since approximately 192,000 tons per year of solid waste will be diverted to the UCRRF over the next 20 years.

Toward the above referenced goal, and the goal of the County's Fuel Quality Assurance Policy, the County is hereby ordered to submit a report to the Department within 180 days of this certification which outlines plans and specific timetables for the removal of materials of concern from the incoming solid waste stream. At a minimum, the plan must address:

- * Efforts already being used by the County for removal of discarded products which contain hazardous substances or constituents from the waste stream, particularly mercury;
- * Specific plans and timeframes for the removal and separate management of dry cell batteries, fluorescent light bulbs, thermometers, mercury switches, CRT and TV tubes, and thermostats, all of which contain mercury and other heavy metals, particularly cadmium and lead;
- * An inventory of potential generators of the above materials, such as jewelers, hospitals and large commercial/institutional/industrial buildings and plans for education and separate collection/drop-off of these materials;
- * Specific plans and timeframes for the removal of wallboard, grass and other yard wastes from the incoming waste stream toward further reducing sulphur dioxide (SO₂) and nitrogen oxide (NO_x) emissions;
- * An inventory of large generators of wallboard and plans for education and separate collection/drop-off and disposal (nonincineration) of this material;
- * Plans for implementing a combination of the Department's "Grass: Cut-it and Leave-it" programs, backyard composting and/or compost facility development or expansion plans to include management of grass clippings. This must include an inventory of existing facilities which accept grass for composting, as well as a listing of all landscapers operating within the county;
- * Specific plans and timeframes for developing comprehensive recycling and waste diversion programs which support the prohibition from acceptance at the incinerator of paints, tires, electronics and vehicular materials, such as batteries, from the residential, commercial, institutional and industrial sectors to further reduce the potential for toxic materials entering the facility; and,
- * Specific plans and schedules for expanding existing household hazardous waste collection programs and/or the development of a permanent household hazardous waste collection facility and

management program for the County.

This report must be submitted within 180 days of this certification and is not required to be submitted in plan amendment form. Department staff within the Division of Solid Waste Management and the Recycling and Planning Program will be available at any time to assist the County.

c. Diminimus Residue and Contaminant Levels

The County Plan inclusion of the definition of diminimus residue and contaminant levels is approved with modification to be consistent with DEPE policy. Specifically, the County defines diminimus levels as it relates to both residue and contaminants as less than 5% solid waste by weight. As indicated within Section B., the Department, however, has established a diminimus residue and contaminant level of 1% and has modified the County Plan accordingly.

3. Bergen County District Solid Waste Management Plan Deficiencies

The County is again reminded that the DEPE'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 district, and to describe a method of financing long-term solid waste management. To date, Bergen County has not submitted the required plan amendment. 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 program as noted in the Department's May 28, 1993 certification of the County's September 16 and December 16, 1992 amendments. To date the County has not submitted this amendment.

Additionally, in the DEPE's December 22, 1993 certification the County was directed to provide Bergen's short-term disposal plan and contracts regarding utilization of the UCRRF and out-of-state disposal. While the February 2, 1994 amendment certified herein addresses the latter two deficiencies, the serious longstanding deficiencies must still be addressed. Although the County recently requested an extension to the March 31, 1994 deadline, the County is again directed to immediately address the above noted deficiencies in a subsequent plan amendment submission. Regarding these deficiencies, it is absolutely imperative that the County pursue all available options including developing in-county capacity or reaching interdistrict agreements with neighboring counties to achieve the State's goal of disposal self-sufficiency by December 31, 1999 at the latest for the approximately 400,000

tons exported annually.

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

7. Reservation of Authority

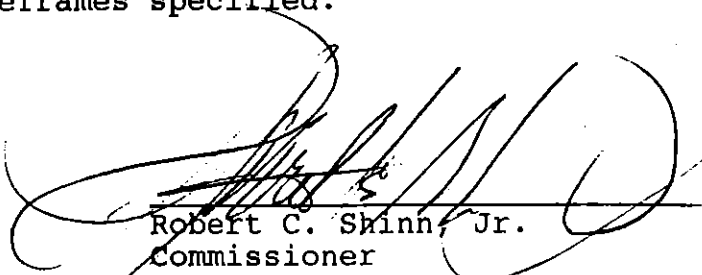
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's 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 Amendments and Notification of Deficiencies 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 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 December 15, 1993 and February 2, 1994. I hereby also require, as noted in Section C., the Bergen County Board of Chosen Freeholders to address the noted deficiencies within the timeframes specified.

Date

5/18/94


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