



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
DECEMBER 21, 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. 13:1E-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 December 21, 1994, adopted an amendment to its approved County Plan. The amendment provides the existing Garofalo Recycling & Transfer Station Co., Inc. transfer station located in Garfield City, Bergen County, with both an increase in capacity and the approval to accept Class A and Class B recyclable materials.

The December 21, 1994 amendment was received by the Department on January 3, 1995 and copies were distributed to various administrative review agencies for review and comment, as required by law. The DEP has reviewed this amendment and has determined that the amendment adopted by the Bergen County Freeholders on December 21, 1994 is 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 Amendment

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the December 21, 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 issues of concern relative to the December 21, 1994 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:

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 Enforcement, DEP
Division of Solid and Hazardous Waste, 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
U.S. Environmental Protection Agency
Hackensack Meadowlands Development Commission

1. Agency Participation in the Review of the December 21, 1994 Amendment

The following agencies did not object to the proposed amendment:

Department of Community Affairs
New Jersey Advisory Council on Solid Waste Management

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

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

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 the December 21, 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 Treatment 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. Also, recycling centers are considered solid waste facilities and are 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.

Issue: Historical Background

The Garofalo transfer station was grandfathered within the initial County Plan adopted on March 19, 1980 and certified on May 1, 1980. In the December 19, 1990 amendment, certified on June 6, 1991, the facility was designated as one of the qualified privately operated transfer stations located within Bergen County approved to direct haul the County's solid waste to out-of-state landfills. In the September 16, 1992 amendment, certified on May 28, 1993, the facility was again identified as one of the qualified transfer stations with a specified capacity (250 tons per day encompassing waste types 10, 13, and 27) and site (Block 48, Lot 16, Block 34, Lot 41, and Block 52, Lot 46 in Garfield). Finally, in the Department's May 18, 1994 certification of the County's February 2, 1994 amendment, the Garofalo transfer station was also included within the County Plan as a materials recovery facility to enable operation as one of the qualified transfer stations designated to process waste for disposal at the Union County resource recovery facility or out-of-state landfills.

The subject December 21, 1994 amendment proposes both a capacity increase for the Garofalo transfer station and the acceptance of Class A and Class B recyclables. The specified capacity is 600 tons per day (TPD) of solid waste types 10, 13, 23, and 27, and 25 TPD of Class A recyclables and 125 TPD of Class B recyclables. However, the amendment did not identify the specific materials which will constitute the Class A and Class B recyclables. Therefore, within Section C. of the certification, the applicant is directed to identify during the Department's technical review process the specific materials which will comprise the Class A and Class B recyclables.

Further, the amendment specifies that the facility shall have a maximum capacity of 2,700 tons per week (TPW) of solid waste types 10, 13, 23, and 27. In a conversation with the Department, the County Solid Waste Coordinator clarified these capacities as a maximum of 750 TPD of solid waste and recyclables (600 TPD of solid waste plus 150 TPD of recyclables) and a maximum of 3,525 TPW of solid waste and recyclables (2,700 TPW of solid waste plus 825 TPW of recyclables).

Also, the December 21, 1994 amendment only specifies one lot and block as constituting the site of the Garofalo transfer station when, in the September 16, 1994 amendment, additional lots and blocks were identified as comprising the facility site. Again, based upon a conversation with the County Solid Waste Coordinator to clarify the intent of the amendment, the Department learned that the actual transfer station site is Block 48, Lot 16, while ancillary activities are conducted on additional lots and blocks.

Finally, during the Department's review of the permit application submitted for the facility expansion it was noted that the City of

Garfield has redesignated lots and blocks comprising the site. Specifically, Block 48, Lot 16 is now Block 48.02, Lot 16.01, Block 34, Lot 41 is now Block 34.02, Lot 41, Block 52, Lot 46 is unchanged, and an additional lot and block has been identified which is Block 220, Lot 7.

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 December 21, 1994 amendment to the approved County Plan and certify to the County Freeholders that the December 21, 1994 amendment is approved as further specified below.

The County Plan inclusion of a capacity expansion for the existing Garofalo Recycling & Transfer Station Co., Inc. transfer station located at Block 48.02, Lot 16.01, 19-35 Atlantic Street in Garfield City, Bergen County, from 250 TPD to 600 TPD for solid waste types 10, 13, 23, and 27 and the acceptance of 25 TPD of Class A recyclables and 125 TPD of Class B recyclables is approved. However, as noted in Section B., since the amendment is silent on the specific materials which will constitute the Class A and Class B recyclables to be accepted at the facility, the applicant is hereby directed to identify during the Department's technical review process the specific Class A and Class B recyclable materials.

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

The applicant must apply to the Department for a modification of its existing solid waste facility permit to authorize a capacity expansion and the acceptance of Class A and Class B recyclable materials. 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.

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 Plans

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

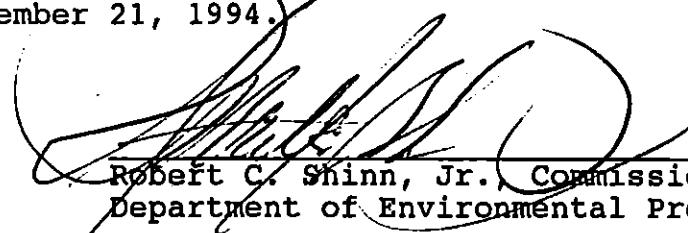
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's 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 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 December 21, 1994.

Date

3/21/95


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