



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL
PROTECTION AND ENERGY

CHRISTINE TODD WHITMAN
Governor

ROBERT C. SHINN, JR.
Commissioner

IN THE MATTER OF CERTAIN AMENDMENTS
TO THE ADOPTED AND APPROVED SOLID
WASTE MANAGEMENT PLAN OF THE
UNION COUNTY SOLID WASTE
MANAGEMENT DISTRICT

CERTIFICATION
OF THE AUGUST 11, 1994
AMENDMENT TO THE UNION 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 August 13, 1980, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Union 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 Union County Board of Chosen Freeholders (County Freeholders) completed such a review and on August 11, 1994, adopted an amendment to its approved County Plan.

The amendment included a contract between the Union County Utilities Authority (UCUA) and Browning-Ferris Industries (BFI) for contingent disposal of residue ash from the operation of the Union County Resource Recovery Facility (UCRRF) at the BFI landfill in Fall River, Massachusetts. The amendment is in response to a directive contained within the Department's May 18, 1994 certification of the County's December 8, 1993 amendment. That certification directed the County to adopt an amendment to include the BFI contract within the County Plan.

The amendment was received by the Department of Environmental Protection on August 30, 1994, and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed this amendment, as well as the entire County Plan, and has determined that the amendment adopted by the County Freeholders on August 11, 1994, is approved as provided in N.J.S.A. 13:1E-24. An ongoing deficiency in the County Plan has been identified within Section C. of this certification.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the August 11, 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 conjunction with the review of the amendment, the Department circulated copies to 14 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 and without the Department. These agencies are the following:

Office of Air Quality Management, DEP
Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Division of Enforcement, DEP
Division of Solid Waste Management, DEP
Green Acres Program, DEP
Land Use Regulation Element, DEP
Division of Water Quality, DEP
New Jersey Turnpike Authority

Department of Agriculture
Department of Community Affairs
New Jersey Advisory Council on Solid Waste Management
Department of Health
Department of Transportation
U.S. Environmental Protection Agency

1. Agency Participation in the Review of the August 11, 1994 Amendment

The following agencies did not object to the proposed amendment:

Division of Parks and Forestry, DEP
Division of Enforcement, DEP
Division of Solid Waste Management, DEP
Green Acres Program, DEP
Division of Water Quality, DEP
New Jersey Turnpike Authority
Department of Agriculture
New Jersey Advisory Council on Solid Waste Management
Department of Transportation

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

Office of Air Quality Management, DEP
Division of Fish, Game and Wildlife, DEP
Land Use Regulation Element, DEP
Department of Community Affairs
Department of Health
U.S. Environmental Protection Agency

None of the agencies submitted substantive comments.

C. Certification of the Union 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 August 11, 1994 amendment to the approved County Plan and certify to the County Freeholders that the August 11, 1994 amendment is approved as further specified below.

1. August 11, 1994 Amendment

The County Plan inclusion of a one year contract between the UCUA and BFI for contingent disposal of residue ash from the operation of the UCRRF at the BFI landfill in Fall River, Massachusetts is approved. The contract between the UCUA and the Empire Landfill, located in Taylor, Pennsylvania, to dispose of residue ash and nonprocessibles from the operation of the UCRRF stipulates that in the event that the Empire Landfill is prohibited from accepting ash

until such acceptance is approved by the relevant regulatory entity, then such ash shall be disposed of at an alternate disposal facility. The Department is cognizant of the fact that the Empire Landfill did not accept ash for a period following the commencement of operations of the UCRRF until approval for such acceptance was received from the Pennsylvania Department of Environmental Resources. In the interim, the UCUA utilized emergency procurement procedures to secure a short-term agreement to utilize the BFI landfill in Fall River, Massachusetts. As the use of this facility was not specifically identified in the County Plan, the Department in its May 18, 1994 certification directed the County to submit a subsequent plan amendment identifying the use of the Fall River landfill. As the ash is currently being accepted at the Empire Landfill, this amendment reflects merely a historical documentation of the use of the BFI landfill in Fall River, Massachusetts and satisfies the directive contained within the May 18, 1994 certification.

2. Union County District Solid Waste Management Plan Deficiency

The Department's May 18, 1994 certification directed the County, within a subsequent plan amendment submission, to identify an in-state disposal facility for residue ash and nonprocessibles. The County was to have submitted this amendment within 120 days or by September 18, 1994. To date, this amendment has not been received. Therefore, the County is directed to immediately submit this required amendment.

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

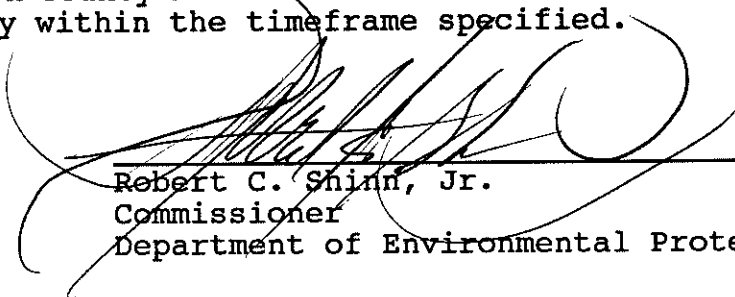
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's 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 Deficiency 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 Union County District Solid Waste Management Plan which was adopted by the Union County Board of Chosen Freeholders on August 11, 1994. I hereby also require, as noted in Section C., the Union County Board of Chosen Freeholders to address the noted deficiency within the timeframe specified.

Date

11/15/94


Robert C. Shinn, Jr.

Commissioner

Department of Environmental Protection