



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
HUDSON COUNTY SOLID WASTE
MANAGEMENT DISTRICT**

**CERTIFICATION
OF THE JUNE 23, 1994 AMENDMENT TO
THE HUDSON 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 January 27, 1982, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Hudson 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 Hudson County Board of Chosen Freeholders (County Freeholders) completed such a review and on June 23, 1994 adopted an amendment to its approved County Plan.

As adopted, the amendment includes V. Ponte & Sons, Inc. (Ponte) as a materials recovery facility subject to certain terms and conditions set forth by the County. The facility is proposed to receive up to 1200 tons per day of Class A recyclable materials, nonresidential type 10 waste generated by commercial offices, institutional establishments, and public entities, and type 13 waste collected by or on behalf of Ponte in vehicles owned by Ponte or a company substantially owned by Ponte. Ponte has been operating pursuant to an Administrative Consent Order and inclusion in the County Plan will correct a historical planning deficiency.

The amendment was received by the Department on September 30, 1994, and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed the amendment, as well as the entire County Plan, and has determined that the amendment adopted by the County Freeholders on June 23, 1994 is approved as provided in N.J.S.A. 13:1E-24. Deficiencies in the County Plan have been identified within Section C. of this certification.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the June 23, 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 issue of concern relative to the June 23, 1994 amendment which is included in Section B.2. below.

In conjunction with the review of the amendment, the Department circulated copies to fifteen 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 June 23, 1994 Amendment

The following agencies did not object to the proposed amendment:

Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Division of Enforcement, DEP
Green Acres Program, DEP
New Jersey Turnpike Authority
Department of Agriculture
Department of Community Affairs

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

Land Use Regulation Element, DEP
New Jersey Advisory Council on Solid Waste Management
Department of Health
Department of Transportation
U.S. Environmental Protection Agency

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

Division of Water Quality
Division of Solid Waste Management
Office of Air Quality Management, DEP

2. Issues of Concern Regarding the June 23, 1994 Amendment

Issue: Historical Background

Pursuant to a Consent Judgment issued on April 9, 1985 by Judge Robert E. Tarleton of the Superior Court of New Jersey, Ponte has been operating a materials recovery facility located in Jersey City, Hudson County. To correct a historical planning deficiency, the County has adopted the June 23, 1994 plan amendment to include the facility, subject to certain terms and conditions, within the County Plan. Prior to this adoption, meetings were held with representatives of Ponte, Hudson County, the DEP, and the New Jersey Department of Law and Public Safety to discuss the County Plan inclusion of the materials recovery facility and the terms and conditions under which the facility would operate. As a result of

these meetings, the parties agreed to specific conditions regarding Ponte's inclusion within the County Plan. These conditions are reflected in the plan amendment and are also contained within a separate agreement between Ponte and the County, dated April 12, 1994, which is not part of this certification.

Issue: Regulatory Requirements

If any operation of the materials recovery facility discharges 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 odors and other air contaminants which interfere with the enjoyment of life or property. Transfer stations/materials recovery facilities 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.

C. Certification of the Hudson 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 June 23, 1994 amendment to the approved County Plan and certify to the County Freeholders that the June 23, 1994 amendment is approved as further specified below.

1. June 23, 1994 Amendment

The County Plan inclusion of the V. Ponte and Sons, Inc. materials recovery facility, located at 2 Hope Street, Block 723, Lots 23, 25, 26, and 29-31; Block 740, Lots 14-18; and Block 742, Lots 2-6 in Jersey City, Hudson County, and Block 23, Lot 1 and Block 9, Lot 6 in Hoboken City, Hudson County is approved. Ponte has been operating pursuant to an Administrative Consent Order and inclusion in the County Plan corrects a historical planning deficiency.

The facility shall accept and process Class A recyclable materials, nonresidential type 10 waste generated by commercial offices, institutional establishments, and public entities, and type 13 waste collected and transported to the facility by or on behalf of Ponte in vehicles owned by Ponte or substantially owned and controlled by Ponte. The type 10 solid waste and Class A recyclable materials shall consist primarily of source separated and/or commingled office paper, old newspaper, corrugated kraft paper, magazines, ledger stock and other mixed paper, and other

Class A recyclables. No other waste types, including types 23, 25, or 27, shall be accepted or processed at the facility, nor shall the facility accept or process any type 13 waste that is not delivered to the facility by or on behalf of Ponte in vehicles owned by Ponte or by a company substantially owned and controlled by Ponte.

Regarding the operational capacity of the facility, no more than a monthly average of 1200 tons per day of materials shall be delivered to the facility. An amount not exceeding a monthly average of 800 tons per day of the materials may be from out-of-state sources and the remaining capacity (in an amount not greater than a monthly average of 400 tons per day) may be from sources located within New Jersey. No more than a monthly average of 35 tons per day of type 13 waste may be delivered to the facility, with a maximum peak day flow of 50 tons per day.

The construction or operation of any solid waste facility is subject to 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. This certification shall not be construed as an expression of the Department's intent to issue a solid waste facility permit for any facility or operation.

Pursuant to N.J.A.C. 7:26A-4.1(a)1.iii, Class A recyclable materials may be commingled only with other Class A recyclable materials. Also, any residue generated as a result of the operation of a 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.).

2. Hudson County District Solid Waste Management Plan Deficiencies

In the Department's July 16, 1993 certification of the County's December 10, 1992 amendment, the County was directed, within 180 days in a subsequent plan amendment submission, to address certain tasks relative to the State's requirements for source reduction, recycling, and regionalization. To date, the required amendment has not been submitted. The July 16, 1993 certification also required the County to address the longstanding planning deficiency of developing a strategy for achieving disposal self-sufficiency. This plan amendment, which was to have been submitted within 180 days, has also not been received. Therefore, the County is directed to immediately submit an amendment in response to all the above noted deficiencies.

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

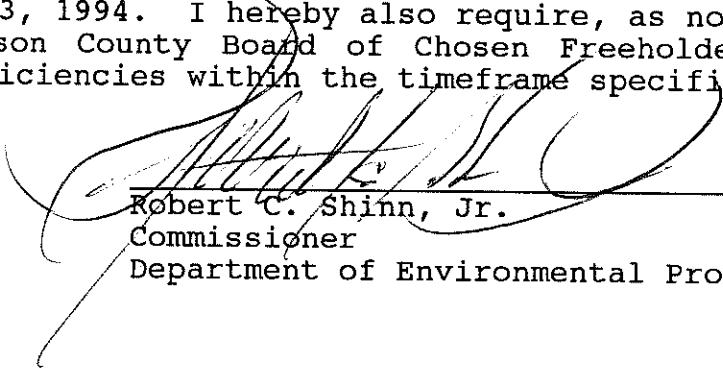
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendments made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's 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 Deficiencies 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 Hudson County District Solid Waste Management Plan which was adopted by the Hudson County Board of Chosen Freeholders on June 23, 1994. I hereby also require, as noted in Section C., the Hudson County Board of Chosen Freeholders to address the noted deficiencies within the timeframe specified.

Date

12/27/94



Robert C. Shinn, Jr.

Commissioner

Department of Environmental Protection