



State of New Jersey

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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 SEPTEMBER 25, 1997
AMENDMENTS 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.

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 September 25, 1997, adopted amendments to its approved County Plan. The amendments

provide for the following:

- *the inclusion of Recycling Specialists, Inc. (RSI) in Jersey City as a transfer station facility;
- *the revision of RSI's Class A recycling center capacities;
- *the inclusion of Rotundo Sanitation Company, Inc. in North Bergen Township as a materials recovery facility;
- *the inclusion of Cooperative Recycling (CORE), Inc. in Jersey City as a recycling center for Class A materials; and
- *the inclusion of a revised policy concerning the rules for County Plan inclusion of transfer stations.

The September 25, 1997 amendments were received by the Department on October 23, 1997 and copies were distributed to various administrative review agencies for review and comment, as required by law. The DEP has reviewed these amendments and has determined that the amendments adopted by the County Freeholders on September 25, 1997 are approved and remanded as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the September 25, 1997 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 the approved plan amendments are consistent with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders and the applicants are notified of the issues of concern relative to the September 25, 1997 amendments which are included in Section B.2. below.

In conjunction with the review of these amendments, 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:

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
Office of Air Quality Management, 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 September 25, 1997 Amendments

The following agencies did not object to the proposed amendments:

Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Department of Community Affairs
Department of Transportation
Department of Agriculture
New Jersey Turnpike Authority

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

Office of Air Quality Management, DEP
Green Acres Program, DEP
Land Use Regulation Element, DEP
Department of Health
New Jersey Advisory Council on Solid Waste Management
U.S. Environmental Protection Agency

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

Division of Solid and Hazardous Waste, DEP
Division of Enforcement, DEP
Division of Water Quality, DEP
Hackensack Meadowlands Development Commission

2. Issues of Concern Regarding the September 25, 1997 Amendments

Issue: Regulatory Requirements

If any operation of a recycling center, transfer station, or materials recovery facility will discharge 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.

Also, recycling centers, transfer stations, and materials recovery facilities are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution." This regulation prohibits the release of odors and other air contaminants which interfere with

the enjoyment of life and property.

The Hackensack Meadowlands Development Commission, acting as a review agency, identified numerous concerns relative to the RSI operation in Jersey City. Specifically, these concerns addressed available site capacity, the availability of weigh scales, and the availability for queuing and possible impact of same on traffic. These concerns are more appropriately addressed during the Department's technical permitting phase for this facility.

Issue: Historical Background for RSI

RSI was initially included within the County Plan as a recycling center for Class A and Class B materials in an amendment of September 27, 1990 which was certified on January 24, 1991. This amendment identified a capacity of 675 tons per day (TPD) for Class A materials (75 TPD for glass, metal, and plastic and 600 TPD for paper) and 725 TPD for Class B materials. The September 25, 1997 amendment proposes that the Class A operation have a capacity of 350 TPD reflective of an increase to 100 TPD (from 75 TPD) for glass, metal, and plastic and a decrease to 250 TPD (from 600 TPD) for paper. The amendment is silent relative to any capacity change for the Class B operation which, therefore, remains at 725 TPD. Finally, the amendment proposes to include RSI within the County Plan as a transfer station to accept 600 TPD of waste types 10, 13, 23, and 27 (exclusive of asbestos) calculated on a six-day weekly basis with a peak daily capacity of 700 TPD.

Issue: Litigation Concerning RSI

In May 1995 the Department initiated litigation against RSI, 375 Routes 1&9 Associates, Classic Sanitation Company, Inc., Frank Chiaia, David Granatell, and various other entities and individuals In the Matter of Recycling Specialists, Inc., et al, OAL Docket No. ESW-1242-94. Pursuant to an Administrative Order and Notice of Civil Administrative Penalty Assessment (AONOCAPA), the DEP seeks to deny and revoke A-901 licenses, certificates of public convenience and necessity, and registrations of the entities involved in this case. The allegations of the AONOCAPA include the respondents operation of solid waste facilities without permits, illegal dumping, tariff violations, permit violations, and others. As of January 1998 the Department has rested its case and respondents are in the process of presenting their defenses. Hearings are scheduled to continue into March 1998. The parties have entered into settlement negotiations but no resolution has been achieved. Therefore, as noted within Section C. of the certification, the inclusion within the County Plan of RSI as a transfer station with revisions in operating capacities of its Class A recycling center is remanded for further consideration by the County consistent with resolution of the litigation. Upon resolution of this litigation, the County may include within the County Plan as an Administrative Action (pursuant to N.J.A.C. 7:26-

6.11(b)10.) these proposals relative to RSI.

C. Certification of the Hudson 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 September 25, 1997 amendments to the approved County Plan and certify to the County Freeholders that the September 25, 1997 amendments are approved and remanded as further specified below.

Transfer Station Inclusion Policy

The County Plan inclusion of a change in the inclusion policy of transfer stations within the County Plan is approved. Specifically, the County's previously adopted policy articulated in a December 10, 1992 amendment, which limited inclusion of additional private transfer stations within the County Plan based upon a quantifiable need for additional transfer stations, is rescinded. Reflective of the Atlantic Coast decision, the County has determined that this previous inclusion limitation is no longer appropriate and is therefore rescinded. The future inclusion of transfer stations within the County Plan shall now be on a case by case basis.

CORE Recycling

The County Plan inclusion of Cooperative Recycling, L.L.C. d/b/a Core Recycling, located at the Foot of Linden Avenue, Block 1507, Lots 10 and 2L.6 in Jersey City, Hudson County as a Class A recycling center is approved. Specifically, the facility would accept up to a maximum of 1160 TPD of paper, metals, plastic, and corrugated and other cardboards.

For a recycling center which will be handling only Class A recyclable materials, as defined at N.J.A.C. 7:26A-1.3, no approval from the Department is necessary prior to operation. However, the recycling center must comply with the regulations at N.J.A.C. 7:26A-4.

Pursuant to N.J.S.A. 7:26A-4.1(a)1.iii., Class A recyclable materials may be commingled only with other Class A recyclable materials. Class B recyclable materials may be commingled only with other Class B recyclable material and only to the extent authorized in the general approval issued by the Department.

Recycling Specialists, Inc.

The County Plan inclusion of Recycling Specialists, Inc. located at 375 Routes 1 and 9 South, Block 1627.1, Lot 2 in Jersey City, Hudson County as a 600 TPD transfer station is remanded for further

consideration by the County consistent with resolution of the litigation as noted in Section B.2. above. Also remanded for further consideration by the County consistent with resolution of the litigation is a revision in operating capacity of the RSI Class A recycling center (total capacity of 350 TPD with 100 TPD for glass, metal, and plastic and 250 TPD for paper). Upon resolution of this litigation, the County may include within the County Plan as an Administrative Action these proposals relative to RSI.

Rotundo Sanitation Company, Inc.

The County Plan inclusion of Rotundo Sanitation Company, Inc. located at 9512 Railroad Avenue, Block 461, Lot 3B and portion of Block 482, Lot 1 in North Bergen Township, Hudson County as a materials recovery facility is approved. Specifically, the facility would accept concrete, asphalt, brick, stone, rock, block, tree parts, wood and asphalt based roofing materials up to a maximum of 1,500 tons per week with a daily average of 250 tons.

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. This certification shall not be construed as an expression of the Department's intent to issue a solid waste facility permit for any proposed facility or operation. 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 a recycling center, transfer station or materials recovery facility shall be disposed of pursuant to the County Plan.

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 waste, sewage sludge, septage, and hazardous waste. All nonhazardous materials separated at the point of generation for sale or reuse are subject to regulation in accordance with 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 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 approved amendments to the County Plan contained herein shall take effect immediately.

7. Reservation of Authority

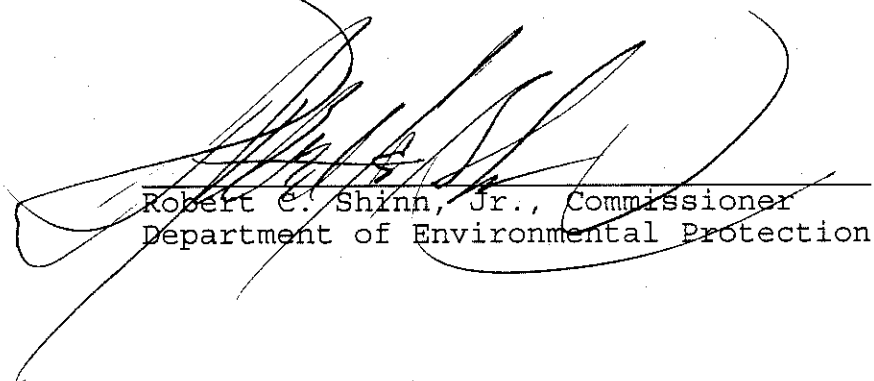
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management

Plan, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the Department, and also includes the compilation of individual district plans and amendments as they are approved.

E. Certification of Approval and Remand of the Amendments 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 and remand the amendments, as outlined in Section C. of this certification, to the Hudson County District Solid Waste Management Plan which were adopted by the Hudson County Board of Chosen Freeholders on September 25, 1997.

3/12/98
Date



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