



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
SOMERSET COUNTY SOLID WASTE
MANAGEMENT DISTRICT**

**CERTIFICATION
OF THE OCTOBER 18, 1994
AMENDMENT TO THE SOMERSET 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 July 31, 1980, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Somerset 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 Somerset County Board of Chosen Freeholders (County Freeholders) completed such a review and on October 18, 1994, adopted an amendment to its approved County Plan. The amendment proposed County Plan inclusion of two Sa and Sons Construction Company recycling centers for Class B materials located in Green Brook and Warren Townships, Somerset County.

The amendment was received by the Department on November 15, 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 October 18, 1994 is approved as provided in N.J.S.A. 13:1E-24. Also, serious planning deficiencies have been identified within Section C. of this certification.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the October 18, 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 which are 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 Solid Waste Management, DEP
 Division of Water Quality, DEP
 Division of Enforcement, 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

1. Agency Participation in the Review of the October 18, 1994 Amendment

The following agencies did not object to the proposed amendment:

Green Acres Program, DEP
Land Use Regulation Element, DEP
Division of Fish, Game and Wildlife, DEP
Division of Enforcement, DEP
New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management
Department of Agriculture
Department of Community Affairs

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

Office of Air Quality Management, DEP
Division of Parks and Forestry, DEP
Division of Water Quality, DEP
Department of Health
Department of Transportation
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, DEP

2. Issues of Concern Relative to the October 18, 1994 Amendment

Issue: Regulatory Requirements

Recycling centers are subject to the provisions of N.J.A.C. 7:26-5, "Prohibition of Air Pollution." This regulation prohibits the release of odors and other air contaminants which interfere with the enjoyment of life and property. 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. Finally, the recycling of asphalt may release organic substances to the air and the recycling equipment of any plant which uses the recycled asphalt may need an air pollution control apparatus to control organic substance emissions.

If any operation of a recycling center will discharge pollutants as defined in N.J.A.C. 7:14-1.9, said operation must secure a New Jersey Pollution Discharge Elimination System Permit and/or a Treatment Works Approval prior to operation.

Issue: Sa and Sons Construction Company Relocation Plan

Sa and Sons Construction Company petitioned the County for

inclusion of two sites located in Green Brook and Warren Townships to conduct recycling activities. However, the company anticipates relocating from the Green Brook Township site to the Warren Township site in August 1995, at which time all Class B recycling operations at the Green Brook Township location will cease. The applicant is hereby advised that it may not be possible to obtain from the DEP a Class B recycling center approval for the Green Brook Township site prior to the August 1995 relocation date due to the time required for the Department to certify this amendment and issue a Class B approval. Therefore, the Department recommends that Sa and Sons focus their application efforts on securing a Class B approval for the Warren Township site. Notwithstanding this advisory, the Department will process the Class B application for the Green Brook Township site as quickly as possible.

C. Certification of the Somerset 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 October 18, 1994 amendment to the approved County Plan and certify to the County Freeholders that the October 18, 1994 amendment is approved as further specified below.

1. October 18, 1994 Amendment

The County Plan inclusion of two Sa and Sons Construction Company sites located at Block 158, Lots 29 and 30, in Green Brook Township, and Block 536, Lot 32, in Warren Township as recycling centers for Class B materials is approved. However, since the company intends to relocate from the Green Brook Township site to the Warren Township site in August 1995, County Plan inclusion of the Green Brook Township site is only approved until August 25, 1995. The Green Brook Township site may accept 5 tons per day (TPD) of asphalt and the Warren Township site may accept 5 TPD of asphalt and 1 TPD of concrete.

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. Class B recyclable materials may be commingled only with other Class B recyclable materials and only to the extent authorized in the general approval.

Any residue generated as a result of the operation of a recycling center handling only Class B materials 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 construction or operation of a recycling center which receives, stores, processes, or transfers Class B recyclable materials, as defined at N.J.A.C. 7:26A-1.3, shall be preceded by the acquisition

of the necessary approvals pursuant to N.J.A.C. 7:26 et seq., and shall be in conformance with Department regulations and guidelines, including N.J.A.C. 7:26A-4.

This certification shall not be construed as an expression of the Department's intent to issue a recycling center approval to any recycling center for Class B recycling materials. A recycling center approval shall only be granted where the applicant has submitted an administratively complete application, as per N.J.A.C. 7:27A-3.5, where all substantive criteria for approval set forth in 7:26A-3.2, 3.3, and 3.4 are satisfied, where a fee has been paid in accordance with N.J.A.C. 7:26A-2, and where none of the criteria for denial of a recycling center approval are met, as per N.J.A.C. 7:26A-11 and 12.

2. Somerset County District Solid Waste Management Plan Deficiencies

On October 29, 1993, the Department certified the April 6, 1993 amendment which included a schedule of milestones for the County to achieve in-state self-sufficiency in solid waste disposal by January 1, 1998. The first milestone stated that the County would commence negotiations with other New Jersey counties to obtain in-state disposal capacity and to report regionalization activities quarterly to the Department commencing December 31, 1993. To date, no reports have been received by the Department. The next milestones required Somerset County to adopt an amendment designating a site for a permanent household hazardous waste collection facility by January 1, 1994 and submit the necessary permit applications by December 1, 1994. To date, the required amendment and permit applications have not been received by the Department.

Also, in the Department's October 9, 1992 certification of the April 7, 1992 amendment deficiencies relative to the State requirements for source reduction, recycling, and regionalization planning were noted. Specifically, the County was directed to provide by April 9, 1993 in plan amendment form greater detail of its efforts to expand source reduction and recycling initiatives and to enter into regional agreements to cease reliance on out-of-state disposal. To date, this amendment has also not been received by the Department.

Finally, in the Department's October 17, 1994 certification of the June 7, 1994 amendment, a Resource Recovery Investment Tax (RRIT) Fund use and disbursement schedule was rejected until such time as the County achieves compliance with the milestones identified in the October 29, 1993 certification.

Therefore, the County is hereby directed to immediately address all the above noted deficiencies. Further, the Department will continue to withhold all RRIT, Solid Waste Services Tax, and

Recycling Fund moneys until such time as the outstanding planning deficiencies are addressed.

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

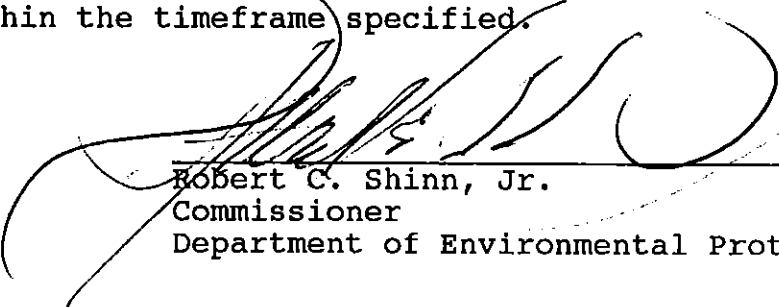
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's 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 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 Somerset County District Solid Waste Management Plan which was adopted by the Somerset County Board of Chosen Freeholders on October 18, 1994. I hereby also require, as noted in Section C., the Somerset County Board of Chosen Freeholders to address the noted deficiencies within the timeframe specified.

Date

1/23/95


Robert C. Shinn, Jr.

Commissioner

Department of Environmental Protection