



State of New Jersey

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Commissioner

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

**CERTIFICATION
OF THE MAY 24, 2000
AMENDMENT TO THE SUSSEX 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 (HMDC) develop comprehensive plans for waste management in their respective districts. On June 1, 1981, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Sussex 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 Sussex County Board of Chosen Freeholders (County Freeholders) completed such a review and on May 24, 2000, adopted an

amendment to its approved County Plan.

The May 24, 2000 amendment proposes County Plan inclusion of:

- 1) Goldmine Enterprises, L.L.C., recycling center for Class A materials located in Andover Township, Sussex County;
- 2) The expansion of the existing Grinnell Recycling, Inc., recycling center for Class B materials located in Sparta Township, Sussex County; and,
- 3) R.E.R Center, L.L.C., recycling center for Class C materials located in Wantage Township, Sussex County.

The amendment was considered administratively complete for review by the Department on June 22, 2000 and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed this amendment, and has determined that the amendment adopted by the County Freeholders on May 24, 2000 is approved in part and rejected in part as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the May 24, 2000 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 the amendment is consistent in part and inconsistent in part with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders are notified of the issues of concern relative to the May 24, 2000 amendment 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 the Department. All agencies contacted are as follows:

Division of Water Quality, DEP
Division of Parks and Forestry, DEP
Division of Fish and Wildlife, DEP
Division of Compliance and Enforcement, DEP
Division of Solid and Hazardous Waste, DEP
Office of Air Quality Management, 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 and Senior Services

Department of Transportation
Department of Community Affairs
U.S. Environmental Protection Agency

1. Agency Participation in the Review of the May 24, 2000 Amendment

The following agencies did not object to the proposed amendment:

Division of Compliance and Enforcement, DEP
~~Division of Fish and Wildlife, DEP~~
Division of Parks and Forestry, DEP
Green Acres Program, DEP
Department of Community Affairs
Department of Agriculture
Department of Transportation
New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management

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

Division of Water Quality, DEP
Land Use Regulation Element, DEP
Division of Air Quality, DEP
Department of Health and Senior Services
U.S. Environmental Protection Agency

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

Division of Solid and Hazardous Waste, DEP

2. Issues of Concern Regarding the May 24, 2000 Amendment

Issue: Facility Operations

Goldmine Enterprises, L.L.C., is proposing to process 100 tons per day of waste paper, magazines, newsprint, computer paper, general office stock and corrugated cardboard at its recycling center for Class A materials. The May 24, 2000 amendment included a truck route to the recycling center stating that all trucks shall use County Routes 603 and 606 to access this facility. County Route 517 should be avoided and municipal roads prohibit truck traffic.

Grinnell Recycling, Inc., is an existing Class B recycling center currently located at Lot 38, Block 26, in Sparta Township. This recycling center is currently approved to accept 200 tons per day of concrete, block, and brick and 100 tons per day of wood. The May 24, 2000 amendment

is proposing to allow the acceptance of 400 tons per day of commingled concrete, asphalt, brick and block and raw wood waste. Also, the May 24, 2000 amendment is proposing the expansion of the facility to include Lot 36, Block 26, in Sparta Township. The May 24, 2000 amendment states that "all hazardous substances must be properly contained and disposed of in accordance with the NJDEP and USEPA regulations. Contaminants shall be limited to a maximum of 1% for each incoming load of source separated recyclable materials. A maximum of 10 tons per day is permitted." The contaminants referred to in the May 24, 2000 amendment must be non-hazardous. Pursuant to N.J.A.C. 7:26A-4.1(a)5., at no time shall any hazardous waste, as defined in N.J.A.C. 7:26, be received, stored, processed or transported at any recycling center as defined in N.J.A.C. 7:26A-1.3 except for used oil and universal waste as provided pursuant to N.J.A.C. 7:26A-4.7, 6 and 7. Further, the May 24, 2000 amendment limits the amount of contaminants to be received at this facility to be 1%, at a maximum of 10 tons per day. The proposed waste limitations of 400 tons per day in the May 24, 2000 amendment would indicate a 4 tons a day contamination rate not 10 tons which is stated in the amendment. Therefore, as noted in Section C. of this certification, the non-hazardous substance contamination limit is corrected to reflect the true allowable contamination rate figure of 4 tons per day. The May 24, 2000 amendment also states that all soils received must be tested for contamination. The only soils approved to be accepted at the facility would be soils commingled with tree trunks and asphalt and concrete. The general approval issued for facilities of this nature does not require testing of these soils. Finally, the May 24, 2000 amendment states that all non-hazardous contaminants shall be disposed of in accordance with the Sussex County District Recycling requirements and N.J.A.C. 7:26-6.5, which directs waste to the Sussex County Municipal Utilities Authority Solid Waste Complex. The solid waste flow rules contained in N.J.A.C. 7:26-6.5 have been invalidated by recent court decisions. To reestablish waste flow a county must either provide for the reaffirmation of an existing district solid waste disposal strategy pursuant to N.J.A.C. 7:26-6.11(b)9., or undertake a non-discriminatory procurement process for the disposal of solid waste generated in the district. Sussex County has not performed either process to reestablish waste flow control, therefore waste flow control does not exist for solid waste generated in Sussex County and this condition contained in the May 24, 2000 amendment is rejected.

R.E.R. Center, L.L.C., is proposing to process leaves, grass, brush and wood chips at its recycling center for Class C materials. The total volume of material to be composted will not exceed 10,000 cubic yards. The May 24, 2000 amendment states that once a copy of the solid waste facility permit is received for this facility, it shall be submitted to the district. Class C recycling facilities do not receive solid waste facility permits from the Department. Class C recycling facilities receive general approvals from the Department, the provisions for which are contained at N.J.A.C. 7:26A-3.2 and 3.18. Exemption provisions from general approval requirements, which may apply for this proposed facility dependent upon the nature and source of the wood chips to be accepted, are found at N.J.A.C. 7:26A-1.4.

C. Certification of the Sussex 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 county solid waste management plans, I have reviewed the May 24, 2000 amendment to the approved County Plan and certify to the County Freeholders that the May 24, 2000 amendment is approved in part and rejected in part as further specified below.

The County Plan inclusion of the ~~Goldmine Enterprises, L.L.C., recycling center for Class A~~ materials located at Lot 4.03; Block 163; in Andover Township, Sussex County is approved. This recycling center will accept up to 100 tons per day of waste paper, magazines, newsprint, computer paper, general office stock and corrugated cardboard. All trucks shall use County Routes 603 and 606 to access this facility. County Route 517 should be avoided and municipal roads prohibit truck traffic.

The County Plan inclusion of the expansion of the Grinnell Recycling, Inc., recycling center for Class B materials located at Lots 36 and 38; Block 26; in Sparta Township, Sussex County is approved. This recycling center will accept up to 400 tons per day of concrete, asphalt, brick, block and raw wood waste. As noted in Section B. of this certification, the allowable non-hazardous waste contamination rate figure is corrected to 4 tons per day. Also as noted in Section B., due to the absence of solid waste flow control for solid waste generated in Sussex County, the condition for approval contained in the amendment requiring the disposal of certain materials at the Sussex County Solid Waste Complex is rejected.

The County Plan inclusion of the R.E.R. Center, L.L.C., recycling center for Class C materials located at Lot 2.01; Block 3; in Wantage Township, Sussex County is approved. This recycling center will accept leaves, grass, brush and wood chips for composting. The total volume of material to be composted will not exceed 10,000 cubic yards.

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 materials. A recycling center approval shall only be issued where the applicant has submitted as administratively complete application, as per N.J.A.C. 7:26A-3.5, where all the substantive criteria for approval set forth in N.J.A.C. 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.

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

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 County 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 including waste types 10, 13, 23, 25, and 27 and all applicable subcategories and shall not apply to liquid and hazardous wastes. 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 Implementation of 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 Freeholders shall proceed with the implementation of the approved components of the 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 Amendment

The approved components of the amendment to the County Plan contained herein shall take effect immediately.

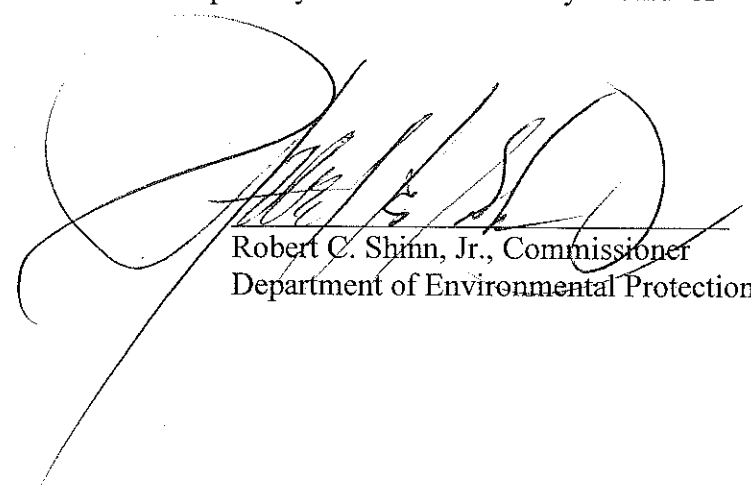
7. Reservation of Authority

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, 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 in part and reject in part the amendment, as outlined in Section C. of this certification, to the Sussex County District Solid Waste Management Plan which was adopted by the Sussex County Board of Chosen Freeholders on May 24, 2000.

11/9/00
Date


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