



Final Draft

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
MORRIS COUNTY SOLID WASTE
MANAGEMENT DISTRICT

CERTIFICATION
OF THE JULY 14, 1999
AMENDMENT TO THE MORRIS 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 29, 1981 the Department of Environmental Protection (Department or DEP) approved, with modifications, the Morris 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 Morris County Board of Chosen Freeholders (County Freeholders) completed such a review and on July 14, 1999 adopted an amendment to its approved County Plan.

The July 14, 1999 amendment includes within the County Plan the Advanced Environmental Technical Services (AETS and now known as Onyx Environmental Services LLC) transfer station located in Mount Olive Township, Morris County. This facility is an existing transfer station which accepts both hazardous and nonhazardous waste. These materials were previously disposed of exclusively at hazardous waste sites. County Plan inclusion of this facility for the acceptance of solid waste type 27 (dry industrial nonhazardous waste) will allow for disposal of this material at both nonhazardous and hazardous waste sites.

The amendment was considered administratively complete for review on July 29, 1999, 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 July 14, 1999 is approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the July 14, 1999 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 relative to the July 14, 1999 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 Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Division of Compliance and Enforcement, DEP
Division of Water Quality, 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 July 14, 1999
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 Compliance and Enforcement, DEP
Green Acres Program, DEP
Land Use Regulation Element, DEP
Department of Agriculture
Department of Community Affairs
Department of Transportation
New Jersey Turnpike Authority

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

Department of Health and Senior Services
Division of Water Quality, DEP
Office of Air Quality Management, DEP
New Jersey Advisory Council on Solid Waste Management
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 July 14, 1999 Amendment

Issue: Description of AETS Facility

AETS is an existing, permitted commercial Resource Conservation Recovery Act (RCRA) facility (DEP facility number 1427G1). The facility is authorized to accept RCRA waste types as well as nonhazardous wastes for storage and subsequent transfer off-site. No treatment is authorized at the facility site. Currently, nonhazardous wastes transferred through the facility are manifest as hazardous wastes destined for Subtitle C (hazardous) treatment or disposal facilities. Most of AETS' customer base consists of large, high-visibility companies which want to limit their potential future liabilities by managing nonhazardous wastes at more highly regulated hazardous waste facilities. However, AETS

often receives requests from generators to transfer materials to Subtitle D (nonhazardous) treatment or disposal facilities. These facilities would include, but not be limited to, landfills and incinerators. The County Plan inclusion of the AETS facility will allow AETS to provide generators the flexibility of managing waste classified as type 27 (dry industrial nonhazardous waste) in the most cost-effective manner. In general, the nonhazardous wastes to be managed at the AETS facility are materials that the Morris County Municipal Utilities Authority (MCMUA) transfer stations prefer not to handle, whether based on constituents, packaging types, and/or physical state. For the most part, the MCMUA transfer stations are not designed to handle containerized wastes whereas AETS' operation is designed primarily for this purpose. The amendment identifies these containerized nonhazardous wastes as the following:

- *aerosols and cylinders
- *consumer commodities and product returns
- *lab packs (five gallon or small containers packed into larger containers with other materials and absorbents)
- *solids/debris in containers ranging in size from five gallons to 40 cubic yards

The amendment also indicates that the existing DEP permit issued to AETS allows for the acceptance of X905 and X910 wastes. It must be noted that these waste codes are no longer in use and that the Department will be modifying AETS' permit to reflect this regulatory change.

Further, the amendment notes that the MCMUA reserves the right to direct any nonhazardous type 27 waste generated from within Morris County accepted at this facility to either its Mount Olive and/or Parsippany-Troy Hills transfer stations. This flow control is in accordance with the approved County Plan.

Finally, AETS's existing hazardous waste facility permit does not limit the amount of material, hazardous or nonhazardous waste, that can be received and transferred on a per day basis. Instead, the permit limits the total volume that can be stored on the property at a given time. The July 14, 1999 amendment states that the amendment shall maintain the facility's maximum acceptance and storage capacity consistent with the hazardous waste facility permit AETS currently operates under. Relative to the capacity issue, on May 27, 1999 the DEP informed AETS by letter that it "...intends to 'grandfather' the waste type 27 capacity for the facility into the County Plan based upon the largest yearly quantity of the former X910, X725, and "C" listed wastes (materials which may now be classified as type 27) manifested to the facility during the last three years (1993-

1995) that the Department has manifest records for the former waste codes." Based upon these records, AETS may accept up to 1,520 tons per year of type 27 waste.

Issue: Regulatory Requirements

If the operation of the existing facility will discharge pollutants as defined at N.J.A.C. 7:14A-1.9, the facility must obtain a New Jersey Pollutant Discharge Elimination System Permit and/or a Treatment Works Approval for Pollutant Discharge prior to operation.

The operation of the existing facility is 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.

C. Certification of the Morris 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 July 14, 1999 amendment to the approved County Plan and certify to the County Freeholders that the July 14, 1999 amendment is approved as further specified below.

The County Plan inclusion of the Advanced Environmental Technical Services (now known as Onyx Environmental Services LLC) transfer station located at 1 Eden Lane, Block 4500, Lot 37 in Mount Olive Township, Morris County is approved. The facility may accept up to 1,520 tons per year of waste type 27 dry industrial nonhazardous waste for storage and off-site transfer. The MCMUA reserves the right to direct any type 27 waste generated from within Morris County accepted at this facility to either the Mount Olive and/or Parsippany-Troy Hills transfer stations in accordance with the approved County Plan.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary 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 Department 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.

The applicant must apply to the Department for a modification of its existing hazardous waste facility permit to authorize the acceptance of nonhazardous waste. This certification shall not be construed as an expression of the Department's intent to issue a hazardous waste facility permit modification for any proposed facility or operation.

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 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 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.

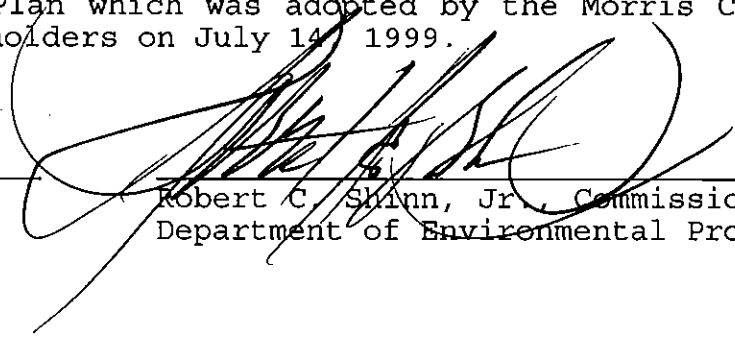
7. Reservation of Authority

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, 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 the amendment, as outlined in Section C. of this certification, to the Morris County District Solid Waste Management Plan which was adopted by the Morris County Board of Chosen Freeholders on July 14, 1999.

11/9/99
Date


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

