



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
ATLANTIC COUNTY SOLID WASTE
MANAGEMENT DISTRICT

CERTIFICATION
OF THE MAY 27, 1994
AMENDMENT TO THE ATLANTIC 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 June 24, 1982, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Atlantic 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 Atlantic County Board of Chosen Freeholders (County Freeholders) completed such a review and on May 27, 1994, adopted an amendment to its approved County Plan.

The amendment would include the Lafayette Utility Construction Company located in Egg Harbor Township as a recycling center for Class B materials.

The amendment was received by the Department on June 29, 1994, 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 27, 1994 is approved with modification as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the May 27, 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 as modified 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 May 27, 1994 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. 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
Green Acres Program, DEP
Land Use Regulation Element, DEP
Division of Water Quality, 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
Pinelands Commission
U.S. Environmental Protection Agency

1. Agency Participation in the Review of the May 27, 1994 Amendment

The following agencies did not object to the proposed plan amendment:

Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Land Use Regulation Element, DEP
New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management
Department of Agriculture
Department of Transportation
Pinelands Commission

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

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

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

Division of Solid Waste Management, DEP
Office of Air Quality Management, DEP
Division of Water Quality, DEP
Green Acres Program, DEP

2. Issues of Concern Regarding the May 27, 1994 Amendment

Issue: Permitting Requirements for Recycling Centers

Recycling centers 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 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. Such vents may require devices to control odors and other air contaminants.

If any operation of the proposed recycling center 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 Treatments Works Approval for pollution discharge prior to operation.

The Department's Division of Solid Waste Management (DSWM) recommends that the applicant contact the DSWM for a preapplication

conference. Specifically, the DSWM is concerned with the planned operation of the facility relative to the amount of incoming material, the nature of the construction waste and clean fill to be accepted, and the amount of material to be landfilled. Pursuant to N.J.A.C. 7:26A-1.3, construction waste and clean fill are descriptions of a generic nature and, as such, are not among those items permitted for acceptance at a facility of the type that the amendment envisions. Therefore, as noted in Section C. below, the Department approves with modification the County Plan inclusion of the Lafayette Utility Construction Company by restricting the materials to be accepted to those consistent with the operation of a recycling center for Class B materials.

Issue: Site Location

The Department's Green Acres Program questioned the ownership of a parcel of land comprising the site of the Lafayette Utility Construction Company recycling center, specifically Lot 2, Block 361-A. A review of that agency's records indicated that this parcel was the property of Egg Harbor Township. The Atlantic County Office of Policy and Planning provided the Department with a copy of Egg Harbor Township's Resolution No. 328 which confirmed the sale of the parcel in question to Lafayette Utility Construction Company through Auction No. 31-91, dated September 25, 1991.

C. Certification of the Atlantic 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 May 27, 1994 amendment to the approved County Plan and certify to the County Freeholders that the May 27, 1994 amendment is approved with modification as further specified below.

The County Plan inclusion of the Lafayette Utility Construction Company located in Egg Harbor Township at Block 195-A, Lot 1; Block 200-A, Lot 1 and P/O Lot 24; Block 361-A, Lots 2-11 & 14-17; Block 362-A, Lots 1-12, 15-17 and 21-24; Block 372-A, Lots 1, 2 and 3; and Block 300-A Lot 2 as a recycling center for Class B materials is approved with modification. Specifically, as a recycling center for Class B materials, the facility may not accept clean fill and construction waste, but may accept only the following quantities of source separated materials per year: 1000 cubic yards of concrete, 500 cubic yards of wood, 300 cubic yards of metal, and 200 cubic yards of asphalt. Uncontaminated soil will be stockpiled on site for re-use as needed. The separated concrete, wood, metal and asphalt will be stored on site until reuse or such time as sufficient quantities exist for further processing at a licensed recycling center.

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 granted where the applicant has submitted an administratively complete application, as per N.J.A.C. 7:26A-3.5, where all 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. Additionally, 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 approval pursuant to N.J.A.C. 7:26A-3 et seq., and shall be in conformance with DEP regulations and guidelines, including N.J.A.C. 7:26A-4. Pursuant to N.J.A.C. 7:26A-4.1(a)1.iii, Class A recyclable material 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 issued by the Department.

Any residue generated as a result of the operation of a recycling center 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.).

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 Waste 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, as modified, 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, as modified, to the County Plan contained herein shall take effect immediately.

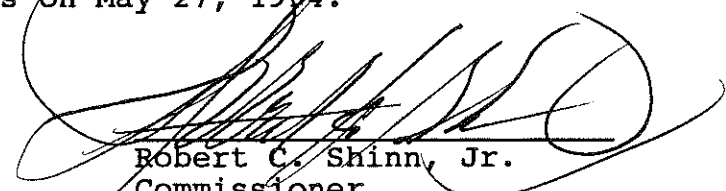
7. Reservation of Authority

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 with Modification 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 with modification the amendment, as outlined in Section C. of this certification, to the Atlantic County District Solid Waste Management Plan which was adopted by the Atlantic County Board of Chosen Freeholders on May 27, 1994.

9/25/94
Date


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