



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
BURLINGTON COUNTY SOLID WASTE
MANAGEMENT DISTRICT**

**CERTIFICATION
OF THE MARCH 14, 2001
AMENDMENT TO THE BURLINGTON 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 October 31, 1980, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Burlington 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 Burlington County Board of Chosen Freeholders (County Freeholders) completed such a review and on March 14, 2001, adopted an amendment to its approved County Plan.

The March 14, 2001 amendment proposes County Plan inclusion of:

- (1) Mimlitsch Enterprises, Inc. Class B recycling facility, located at Block 44, Lot 8.02, 151 New Road, in Evesham Township;
- (2) Moorestown Township Class B recycling facility, located at Block 8600, Lots 9 and 12, Creek Road, in Moorestown Township;
- (3) The addition of Block 44, Lot 5.03 to Burlington County Resource Recovery Complex, located on Burlington-Columbus Road, in Mansfield Township; and,
- (4) An update to the procedures to be followed in considering amendments to the District Plan.

The amendment was considered administratively complete for review by the Department on May 15, 2001 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 March 14, 2001 is approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the March 14, 2001 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 with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders are notified of the issues of concern relative to the March 14, 2001 amendment which are included below.

In conjunction with the review of the amendment, the Department circulated copies to sixteen 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 Pinelands Commission
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

Issues of Concern Regarding the March 14, 2001 Amendment

Issue: Facility and County Plan History

Mimlitsch Enterprises, Inc. has been operating a landscaping supply business since 1985 at Block 44, Lot 8.02, in Evesham Township. As part of their business operations Mimlitsch Enterprises wishes to accept tree parts and brush for processing into landscaping products; therefore, Mimlitsch Enterprises needs to obtain County Plan inclusion as a Class B recycling facility and a general approval for a Class B recycling facility.

On July 14, 1982, the Burlington County Board of Chosen Freeholders adopted a plan amendment that included the Township of Moorestown composting facility for leaves, grass, brush and tree clippings, which was certified by the Department on April 18, 1983. Since 1990, along with the composting operation, the Moorestown Township facility had been collecting and stockpiling tree parts and branches from residents and municipally owned land. In 1997, Moorestown Township submitted applications to the Department seeking general approvals for operation of Class B and Class C recycling centers at Block 8600, Lots 9 and 12 (formerly known as Block 22, Lot 3).

The July 14, 1982, Burlington County plan amendment also included the Burlington County Resource Recovery Complex, which covered contiguous sections of Florence and Mansfield Townships to serve as a county wide solid waste management complex. At the time of the April 18, 1983 certification of the plan amendment Block 44, Lot 5.03 (formerly Block 44, Lot 5C) was owned and operated by AT and T. In 1993 AT and T vacated the parcel. The availability of the tract for solid waste activities has allowed for a reconfiguration of the design of the second landfill to be constructed at the Burlington County Resource Recovery Complex. The footprint of the permitted landfill will encompass a portion of Block 44, Lot 5.03. The March 14, 2001 plan amendment included County Plan inclusion of the addition of Block 44, Lot 5.03 to Burlington County Resource Recovery Complex, located on Burlington-Columbus Road, in Mansfield Township.

The original Burlington County Plan did not include specific procedures to be followed in the plan amendment adoption process. In order to establish a uniform process, the County adopted procedures as part of the August 13, 1986 County Plan Amendment, certified by the Department on January 26, 1987. However, the County has found that the procedures may impose undue constraints with respect to the time prescribed for processing amendments, that the procedures do not afford flexibility in processing minor amendments and that the requirements for document reproduction and mailing are overly burdensome. The following summarizes the proposed changes in the procedures for considering amendments to the County Plan:

1. The application for County Plan inclusion submitted to the County no longer requires the draft notice of public hearing, the waste flow agreement, the means to maximize resource recovery and the proposed plan amendment.
2. After the application is deemed complete, the County assumes responsibility for scheduling

the public information and Solid Waste Advisory Council (SWAC) meetings and the public hearing before the Board of Chosen Freeholders. The County also assumes responsibility of preparing the proposed amendment to the County Plan.

3. The SWAC meeting does not have to be scheduled at least one week prior to the public hearing.
4. Written comments will be accepted up to the Friday prior to the date of the public hearing, not 30 days after the first notice of the public hearing is published.
5. A response document to comments will be prepared by the County after the public information and SWAC meetings, and will be supplemented after the public hearing if necessary, rather than just after the public hearing under the old procedures.
6. Lastly, once the Board of Chosen Freeholders adopts a resolution approving the plan amendment, a copy will not only be sent to the Department, but to all those who submitted written objections.

Furthermore, following is a summary of the procedures for consideration of amendments to the District Solid Waste Management Plan:

1. A pre-application conference is encouraged but is not required.
2. A complete application for amendment to the District Plan shall consist of the following:
 - i. All the information required by New Jersey Statute or regulation for plan inclusion;
 - ii. A report that supports the application;
 - iii. Preliminary or conceptual engineering plans including a general site plan;
 - iv. Agreed benefits to be afforded to the host municipality;
 - v. A preliminary Environmental Impact Statement, including a health risk assessment and an emergency plan, as required by DEP;
 - vi. The disclosure statement or license required by N.J.S.A. 13JE-128;
 - vii. A nonrefundable filing fee.
3. The County, after reviewing the application, shall notify the applicant in writing if additional information is required.
4. If the County determines that, on the face of the application, the proposed facility does not comply with substantive facility siting standards, it may deny the application. Said denial shall be in writing and state that it is the final action by the County.
5. If the County determines the application complete, it shall so notify the applicant in writing and request that the applicant supply sufficient number of copies of the application for public distribution and review.
6. Following a determination of completeness, the County shall:
 - i. Consult with the applicant and the host municipality to determine a convenient time and place for a SWAC meeting and public information meeting, if required by the County. All expenses incurred in securing the site and conducting the public information meeting shall be met by the applicant;

- ii. Schedule a date for the Public Hearing to be held before the Board of Chosen Freeholders;
- iii. Make arrangements to obtain a stenographer at applicant's expense for the public information meeting, SWA C meeting and public hearing;
- iv. Prepare a proposed plan amendment;
- v. Prepare a Notice of Public Hearing pursuant to N.J.S.A. 13:IE-23;
- vi. Cause notice to be published in at least two newspapers of general circulation within the County, one of which must be the official newspaper of Burlington County as designated annually by the Board of Chosen Freeholders. Said notice shall be published once each week for two consecutive weeks with the second notice appearing no less than ten days before the public hearing to be held before the Board and no less than two days before the public information meeting if required hereunder.
- vii. Distribute the application, notice of public hearing and proposed plan amendment to:
 - (a) each member of the Burlington County Board of Chosen Freeholders;
 - (b) the Mayor of the municipality in which the facility is proposed to be located and all other municipalities located within a one mile radius of the proposed facility; and
 - (c) all relevant County Departments.
- viii. Mail or otherwise serve upon each of the following a copy of the notice of public hearing and proposed plan amendment:
 - (a) each SWAC member;
 - (b) all property owners within 200 feet of the proposed site of the facility as well as the current owner of each parcel of property on which the proposed facility is to be located;
 - (c) each public library within the County, with a request that it serve as a depository for the public notice and proposed plan amendment;
 - (d) the Mayor of every municipality in Burlington County;
 - (e) the New Jersey Department of Environmental Protection;
 - (f) the New Jersey Pinelands Commission, if applicable;
 - (g) the Delaware Valley Regional Planning Commission;
 - (h) the Delaware River Basin Commission; and
 - (i) other affected parties as the County may deem necessary on a case by case basis.

7. Public Information Meeting

- i. The applicant shall attend a public information meeting, if required.
- ii. The public information meeting may be held in conjunction with the meeting of the SWAC.
- iii. A stenographer must be provided at each public information meeting or continuation(s) of said meeting and a transcript of each meeting(s) provided to the County at the applicant's cost.
- iv. The applicant may be required by the County to have a representative from each consultant that participated in the preparation of the application present at each public information meeting to answer any questions that may be raised by the

- County or members of the public.
 - v. If any public information meeting cannot be completed within the arranged time, the County will schedule a time for continuation of said meeting.
- 8. SWAC Meeting
 - i. A meeting of the County Solid Waste Advisory Council shall be scheduled prior to the public hearing to be held before the Board of Chosen Freeholders.
 - ii. A stenographer and a transcript of the meeting must be provided at the applicant's cost.
 - iii. The applicant and a representative from each consultant that participated in the preparation of the application must attend said meeting, present an overview of the application and be available to answer all questions raised by SWAC.
 - iv. Following the meeting, SWAC shall vote to recommend that the proposed amendment be adopted, rejected, or adopted with modifications. Such recommendation shall be reported to the Board prior to the public hearing.
- 9. Written Comment Period
 - i. The County shall accept written comments on the application until the close of business on the Friday preceding the date scheduled for the public hearing.
- 10. Response Document
 - i. The County will prepare a response document addressing written and oral comments received during the comment period, the public information meeting and SWAC meeting. If possible, the response document will be provided to the Board for its consideration prior to the public hearing.
- 11. Public Hearing
 - i. A stenographer must be provided at the public hearing and a transcript of the hearing provided to the County at the applicant's cost.
 - ii. The public hearing to be held before the Board of Chosen Freeholders pursuant to N.J.S.A. 13:1E-23 shall be governed by the following procedures:
- 12. If the Board defers a decision on the proposed plan amendment based upon the comments received, then the County will prepare a supplement to the response document addressing comments received during the public hearing and any additional written comments submitted to the Board if it determines to extend the written comment period. The response document will be provided to the Board for its consideration prior to final action on the application.
- 13. Upon final approval or approval with modification by the Board, the County shall:
 - i. transmit the plan amendment, the Board's resolution approving the amendment and the record supporting its action to the Department Of Environmental Protection;
 - ii. serve upon each person who filed a written objection at or prior to the public hearing, a copy of the resolution adopting the amendment.

Issue: Facility Operations

The March 14, 2001 plan amendment is proposing County Plan inclusion of Mimlitsch Enterprises, Inc. Class B recycling facility, located at Block 44, Lot 8.02, 151 New Road, in Evesham Township. The facility will accept the following Class B recyclable materials, which will be processed into mulch products for sale to municipalities, garden centers and landscape contractors: up to 10 tons per day of source-separated tree parts, up to 30 tons per day of source-separated tree stumps, brush and leaves, and up to 10 tons per day of wooden pallets. This gives the facility a total daily capacity of 50 tons of Class B recyclable materials.

Also proposed in the March 14, 2001 plan amendment is Plan inclusion of Moorestown Township Class B recycling facility, located at Block 8600, Lots 9 and 12, Creek Road, in Moorestown Township. The facility will accept up to 25 tons per day of source-separated brush; and up to 43 tons per day of tree parts, which will be processed into wood chips.

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

Recycling centers 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.

C. Certification of the Burlington 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 March 14, 2001 amendment to the approved County Plan and certify to the County Freeholders that the March 14, 2001 amendment is approved as further specified below.

The County Plan inclusion of:

1. Mimlitsch Enterprises, Inc. Class B recycling facility, located at Block 44, Lot 8.02, 151 New Road, in Evesham Township, which will process up to 10 tons per day of source-separated tree parts, up to 30 tons per day of source-separated tree stumps, brush and leaves, and up to 10 tons per day of wooden pallets;
2. Moorestown Township Class B recycling facility, located at Block 8600, Lots 9 and 12, Creek Road, in Moorestown Township, which will accept up to 25 tons per day of source-separated brush and up to 43 tons per day of tree parts;
3. The addition of Block 44, Lot 5.03 to Burlington County Resource Recovery Complex, located on Burlington-Columbus Road, in Mansfield Township; and,
4. An update to the procedures to be followed in considering amendments to the District Plan, as described in Section B above.

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 an 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 D 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.

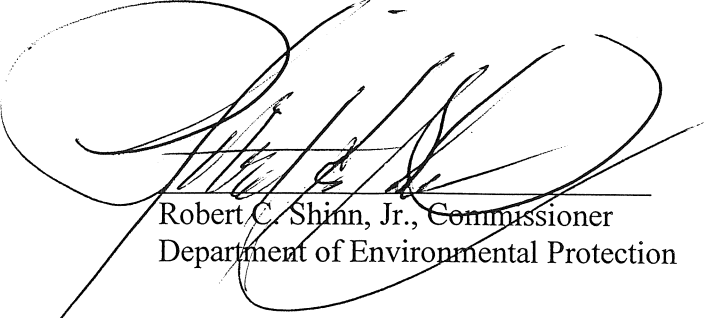
7. Reservation of Authority

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 the amendment, as outlined in Section C. of this certification, to the Burlington County District Solid Waste Management Plan which was adopted by the Burlington County Board of Chosen Freeholders on March 14, 2001.

9/25/01
Date



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