



State of New Jersey

Department of Environmental Protection

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

**CERTIFICATION
OF THE JUNE 13, 2001
AMENDMENT TO THE ESSEX 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 August 13, 1980, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Essex 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 Essex County Board of Chosen Freeholders (County Freeholders) completed such a review and on June 13, 2001, adopted an amendment to its approved County Plan.

The June 13, 2001 amendment includes within the County Plan the T. Fiore Recycling Corporation, located in the City of Newark, Essex County, as a recycling center for Class B materials.

The amendment was received by the Department on July 3, 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 June 13, 2001 is approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the June 13, 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 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 June 13, 2001 amendment which are included 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 Management, 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

Issues of Concern Regarding the June 13, 2001 Amendment

Issue: Previous County Plan Amendments regarding T. Fiore Recycling Corporation Facility

A previous plan amendment proposing to include the T. Fiore Recycling Corporation facility in the County Plan was adopted by the County on April 27, 2000. That amendment proposed to include the facility as a solid waste transfer station/materials recovery facility (TS/MRF), as well as a recycling center for Class B material. The Department, in its December 6, 2000 certification of the April 27, 2000 amendment, noted that the facility as proposed would bring an additional 6,000 tons per day of solid waste and construction and demolition debris within the boundaries of the City of Newark. The Department questioned the scale of the proposed facility and the impact of the additional traffic, along with its attendant noise and air pollution, on public health and the environment. Additionally, the Department noted in its certification that the public notification for the April 27, 2000 amendment incorrectly identified the T. Fiore facility as an operating TS/MRF although the facility is not currently included in the County Plan nor permitted by the Department as a TS/MRF. In light of these issues, the Department's December 6, 2000 certification remanded the amendment to the County for readoption and recertification.

Following this remand the County readopted a subsequent amendment on December 28, 2000, proposing to include in the County Plan the T. Fiore Recycling Corporation facility as a recycling center for Class B material. The adoption of the December 28, 2000 plan amendment did not comply with the statutory requirements for modifying district solid waste management plans pursuant to N.J.S.A.13:1E-23(d), and therefore was determined to be administratively incomplete.

Issue: Operations of the T. Fiore Recycling Corporation Facility

The T. Fiore Recycling Corporation facility has been operating pursuant to N.J.A.C 7:26A-3.7 under a limited approval issued by the DEP to operate a recycling center for Class B materials. The June 13, 2000 amendment proposes to include the T. Fiore facility in the County Plan to operate a Class B recycling center on a continual basis, subject to permit approval. The amendment proposes the facility to process 3000 tons per day of the following materials: concrete, concrete block, cinder block, brick, asphalt, asphalt millings, asphalt shingles, ceramic, tile, porcelain, plaster, stumps, tree parts, tree limbs, brush/branches, clean wood, leaves, creosote wood, tires, street sweepings, cupola slag, and incinerator ash.

It is noted that creosote wood, cupola slag, street sweepings and incinerator ash are not specifically identified as Class B recyclable materials in the Department's regulations. While the Department in the past has approved the processing of nontraditional materials within its Class B recycling center permits, it should be noted that approval to accept such materials is granted on a case-by-case basis and may be subject to supplementary requirements such as materials analysis, as well as the demonstration that end use markets exist for the material.

Within Section C., the T. Fiore Recycling Corporation is approved. The continued operation of this existing facility, beyond the expiration of the currently possessed limited approval, shall require the acquisition of all necessary permit approvals as further specified in C. below.

Issue: Regulatory Requirements

If any operation of a recycling center or materials recovery facility 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 Treatment Works Approval for pollutant discharges prior to operation.

Recycling centers and materials recovery facilities 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 Essex 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 June 13, 2001 amendment to the approved County Plan and certify to the County Freeholders that the June 13, 2001 amendment is approved as further specified below.

The County Plan inclusion of the T. Fiore Recycling Corporation, located at 411 Wilson Avenue, City of Newark, Essex County, Block 5020, Lot 69.02, as a recycling center for Class B materials, is approved. The recycling center for Class B materials may accept up to 3000 tons per day of source-separated concrete, concrete block, cinder block, brick, asphalt, asphalt millings, asphalt shingles, ceramic, tile, porcelain, plaster, stumps, tree parts, tree limbs, brush/branches, clean wood, leaves, creosote wood, tires, street sweepings, cupola slag, and incinerator ash.

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. Specifically, with respect to the T. Fiore Recycling Corporation, the continued operation of this existing facility beyond the expiration of the currently possessed limited approval, shall require the acquisition of all necessary permit approvals as follows. 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.

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 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.

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 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 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

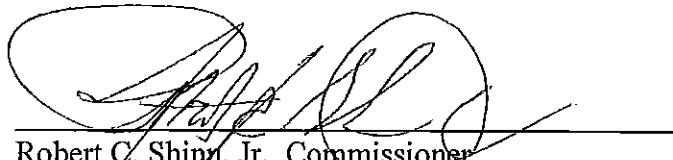
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the Department, 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 Essex County District Solid Waste Management Plan which was adopted by the Essex County Board of Chosen Freeholders on June 13, 2001.

October 10, 2001

Date


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