



State of New Jersey

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DONALD T. DiFRANCESCO
Acting Governor

Robert C. Shinn, Jr.
Commissioner

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

**CERTIFICATION
OF THE JUNE 12, 2001
AMENDMENT TO THE CAPE MAY 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 February 4, 1981, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Cape May 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 Cape May County Board of Chosen Freeholders (County Freeholders) completed such a review and on June 12, 2001, adopted an amendment to its approved County Plan.

The June 12, 2001 amendment proposes County Plan inclusion of the Lower Township Municipal Utilities Authority (MUA) Class B and Class C recycling center, located at Block 410.01, Lot 59.01, 2900 Bayshore Road, Lower Township, Cape May County.

The amendment was considered administratively complete for review by the Department on July 5, 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 12, 2001 is approved with modification as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the June 12, 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 approved 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 June 12, 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
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 June 12, 2001 Amendment

Issue: Facility Operations

The proposed Lower Township Municipal Utilities Authority Class B and Class C recycling center, is to be located at Block 410.01, Lot 59.01, 2900 Bayshore Road, Lower Township, Cape May County. The Class B recycling center anticipates receiving 20 tons per day of asphalt while a maximum of 55 tons per day will be processed. The Class C recycling center will accept up to 1,250 tons per year of leaves and 165 tons per year of grass for composting.

The amendment noted that the maximum amount of contaminants allowed in each incoming load of Class B recyclable material shall be limited to 1% by volume and that these provisions are part of the recycling facility operating standards contained in N.J.A.C. 7:26A-1 et seq. This is an incorrect reading of the applicable regulations. Contaminant standards are determined on a case-by-case basis in the general approval issued by the Department to a Class B recycling facility as per N.J.A.C. 7:26A-3.5. Therefore, Section C. of this certification approves with modification the County Plan inclusion of the Class B and C recycling center and defers the 1% contamination limitation issue to the technical phase of the Class B and C approval process.

Issue: Regulatory Requirements

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 Cape May 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 12, 2001 amendment to the approved County Plan and certify to the County Freeholders that the amendment is approved with modification as further specified below.

The County Plan inclusion of the Lower Township Municipal Utilities Authority Class B and Class C recycling center, located at Block 410.01, Lot 59.01, 2900 Bayshore Road, Lower Township, Cape May County is approved with modification. The amendment noted that the maximum amount of contaminants allowed in each incoming load of Class B recyclable material shall be limited to 1% by volume and that these provisions are part of the recycling facility operating standards contained in N.J.A.C. 7:26A-1 et seq. This is an incorrect reading of the applicable regulations. Contaminant standards are determined on a case-by-case basis in the general approval issued by the Department to a Class B recycling facility as per N.J.A.C. 7:26A-3.5. Therefore, the 1% contamination limitation issue for this Class B recycling center is

deferred to the technical phase of the Class B and C approval process.

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 or Class C 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 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 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 amendment to the County Plan contained herein shall take effect immediately.

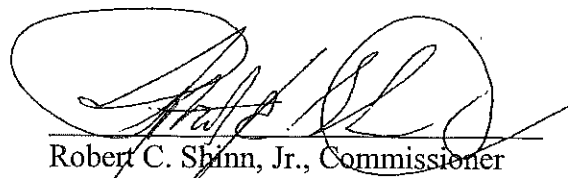
7. **Reservation of Authority**

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 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 Cape May County District Solid Waste Management Plan which was adopted by the Cape May County Board of Chosen Freeholders on June 12, 2001.

October 11, 2001
Date


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

