



State of New Jersey

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Commissioner

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

**CERTIFICATION
OF THE MAY 11, 2000
AMENDMENT TO THE CUMBERLAND 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 March 4, 1981, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Cumberland 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 Cumberland County Board of Chosen Freeholders (County Freeholders) completed such a review and on May 11, 2000, adopted an amendment to its approved County Plan.

The May 11, 2000 amendment is multi-faceted and proposes to include in the County Plan:

- * A revised solid waste disposal strategy;
- * An increase in the permitted capacity of the Cumberland County Solid Waste Complex (CCSWC) landfill;
- * The addition of lots to the existing permitted CCSWC landfill site to provide additional buffer and storm water detention;
- * The addition of Kennedy Concrete, Inc., City of Vineland, as a recycling center for Class B material;
- * The addition of Federal Disposal, Inc., City of Vineland, as a recycling center for Class A and Class B materials, and as a transfer station/materials recovery facility (TS/MRF)

The amendment was considered administratively complete on May 25, 2000, 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 11, 2000 is approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the May 11, 2000 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 are notified of the issues of concern relative to the May 11, 2000 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 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

1. Agency Participation in the Review of the May 11, 2000 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
New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management
Department of Agriculture
Department of Transportation

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

Division of Water Quality Management, DEP
Office of Air Quality Management, DEP
Land Use Regulation Element, DEP
Department of Health and Senior Services
Department of Community Affairs
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 May 11, 2000 Amendment

Issue: Revised Solid Waste Disposal Strategy

In a previous amendment dated January 15, 1998, and certified as approved by the Department on April 24, 1998, Cumberland County set forth its initial response to the May 1997 decision of the courts which declared unconstitutional New Jersey's historic system of solid waste flow

control. The County adopted and implemented a market participant strategy which provides for voluntary delivery of solid waste to the CCSWC landfill.

In the May 11, 2000 amendment, the County proposes a multi-faceted plan to allow it to continue to charge competitive rates and meet all of its debt obligations and operating expenses without the imposition of any additional service charges. The County proposes a volume expansion of the CCSWC landfill by increasing the average tons per year disposed at the landfill from 149,000 tons per year to 200,000 tons per year. The County further proposes to negotiate contracts for disposal at the landfill for up to 1 million tons of the 1.4 million tons of additional disposal capacity by soliciting proposals from the private sector to contract for disposal rights. The anticipated 1 million tons so contracted will equate to an annual disposal of 50,000 tons. Since Cumberland County disposes approximately 150,000 tons per year at the CCSWC landfill, the 400,000 tons of capacity remaining in the volume expansion will extend the life of the landfill from its current projection of 2018 to 2020. Therefore, the County will comply with its statutory requirements of providing disposal capacity for Cumberland County residents for the 10 year planning period while also meeting its debt obligations. Finally, the County proposes to utilize approximately \$5 million of its own funds from its BPU Escrow Account for closure/post closure expenses.

Issue: Historical Background of the CCSWC landfill

The CCSWC landfill was initially included in the County Plan via an amendment dated March 15, 1984, and certified as approved by the Department on July 30, 1984. The facility was identified in the March 1984 amendment as located on Lots 34-37, Block 42, in Deerfield Township. A 1990 permit renewal allowed the bottom liner elevations of the landfill to be lowered which resulted in the lowering of the final contours in Cells 5, 6A and 6B. The subject amendment proposes to increase the capacity of the landfill by 2.2 million cubic yards (from 7.4 million to 9.6 cubic yards) to make up for the loss of permitted capacity lost by the lowering of the contours. According to the County, after allowing for the volume consumed by cover material, this will provide space for an additional 1.4 million tons of solid waste. Additionally, the subject amendment proposes to include Lots 18 and 19 and portions of 2, 3 and 4 in Block 76 to the permitted area of the landfill for additional buffer and storm water detention facilities.

Issue: Conditions of Operation for Federal Disposal, Inc. Recycling Center and TS/MRF

The May 11, 2000 amendment, in addition to including the Federal Disposal Inc. recycling center and TS/MRF in the County Plan, specifies a condition of operation for this facility. Specifically, the amendment states that all residual waste from the facility's operation is to be disposed of at the CCSWC under a "right of first refusal" agreement between Federal Disposal and the CCIA. As noted in Section C. of this certification, the Department approves the County Plan inclusion of the Federal Disposal, Inc. facility. The Department notes, however, that any provisions of the agreement between Federal Disposal and the CCIA remain subject to N.J.A.C.

7:26-6.12(b), which requires that a TS/MRF operate in compliance with any applicable district solid waste management plan as well as any amendments to a district plan and/or any administrative actions concerning such a plan.

Issue: Objections to the Amendment Submitted by Cape May County

The Department was provided a copy of a letter dated May 9, 2000 from Daniel Beyel, Cape May County Freeholder Director, to Douglas Fisher, Cumberland County Freeholder Director, objecting to specific provisions of the proposed Cumberland County Plan amendment which was subsequently adopted on May 11, 2000. On April 25, 2000, Cape May County adopted an amendment to its County Plan which limits the disposal options for waste generated within Cape May County to either disposal at an out-of-state facility or the Cape May County landfill. Specifically, Cape May County objects to Cumberland County's proposed residual disposal requirements for material that was generated outside of Cumberland County but processed through a Cumberland County facility, such as Federal Disposal's recycling center or transfer station/materials recovery facility (TS/MRF). Cumberland County has proposed that such residual material must be disposed at the CCSWC landfill under a "right of first refusal" agreement. Regardless of what contractual provisions to which Federal Disposal may have agreed, pursuant to N.J.A.C. 7:26-6.12(b), a TS/MRF must operate in compliance with any applicable district solid waste management plans as well as any amendments to and/or approved administrative actions concerning such plans, including the Cape May County Plan, as amended.

C. Certification of the Cumberland 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 May 11, 2000 amendment to the approved County Plan and certify to the County Freeholders that the May 11, 2000 amendment is approved as further specified below.

The County Plan inclusion of the revised solid waste disposal strategy is approved. Specifically, the proposed volume expansion of the CCSWC landfill (from 7.4 million to 9.6 cubic yards) is approved. The County's proposed increase in the average tons per year disposed at the landfill from 149,000 tons per year to 200,000 tons per year is also approved. Finally, the inclusion in the County Plan of Lots 18 and 19 and portions of 2, 3 and 4, Block 76 in Deerfield Township, Cumberland County to the permitted area of the CCSWC landfill for additional buffer and storm water detention facilities, is approved. The County intends to negotiate contracts for disposal at the landfill for up to 1 million tons of the 1.4 million tons of additional disposal capacity resulting from the expansion.

The County Plan inclusion of the Kennedy Concrete, Inc., facility, located at 1983 South East Avenue (Block 968, Lot 1), in the City of Vineland, Cumberland County, as a recycling center

for Class B material, specifically concrete, is approved.

The County Plan inclusion of the Federal Disposal, Inc. facility, located at the southwest corner of West Chestnut Avenue and Mill Road (Block 515, Lot 2), in the City of Vineland, Cumberland County, as a recycling center for Class A and Class B recyclable material, and as a TS/MRF, is approved. Specifically, the Class A operation will accept source separated or commingled recyclable material including: glass, aluminum, paper, plastic and cardboard. The Class B operation will accept: asphalt, concrete, brick, block, clean (untreated) wood, tile and assorted masonry, tree stumps, tree parts and tires. The Class A and B operations will accept a combined total of 300 tons per day of material. The TS/MRF operation will accept up to 600 tons per day of solid waste consisting of waste types 10, 13C, and 27. The TS/MRF will remove Class A and B recyclable material from the solid waste for transfer to the on-site Class A and B recycling facility for further processing prior to shipping to end markets. As noted in Section B., the contractual provisions of the "right of first refusal" agreement with the CCIA does not relieve Federal Disposal of its obligation to comply with N.J.A.C. 7:26-6.12(b), which requires a TS/MRF to operate in compliance with any applicable district solid waste management plans as well as any amendments to and/or approved administrative actions concerning such plans.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and 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 (CCIA) must apply to the Department for a modification of its existing solid waste facility permit to authorize a capacity expansion and the facility's continued operation. This certification shall not be construed as an expression of the Department's intent to issue a solid waste facility permit modification for any proposed facility or operation.

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.

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.

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 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

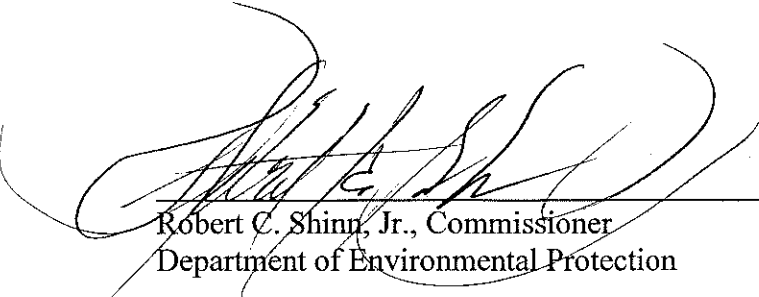
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's 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 Cumberland County District Solid Waste Management Plan which was adopted by the Cumberland County Board of Chosen Freeholders on May 11, 2000.

10/9/00

Date



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