



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
ESSEX COUNTY SOLID WASTE
MANAGEMENT DISTRICT**

**CERTIFICATION
OF THE SEPTEMBER 13, 1994
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, 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 Essex County Board of Chosen Freeholders (County Freeholders) completed such a review and on September 13, 1994, adopted an amendment to its approved County Plan.

The amendment proposed a site expansion for the existing Advanced Enterprises Recycling, Inc. recycling center for Class B materials located in Newark, Essex County, to an adjacent lot to provide for increased capacity for the acceptance of grass clippings.

The amendment was received by the Department on January 11, 1995 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 September 13, 1994 is approved with modification 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 September 13, 1994 amendment to the County Plan according to the objectives, criteria, and standards developed in the Statewide Solid Waste Management Plan and I find 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 September 13, 1994 amendment which are included in Section B.2. below.

In conjunction with the review of the amendment, the Department circulated copies to fifteen federal and state 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:

- Office of Air Quality Management, DEP
- Division of Enforcement, DEP
- Division of Parks and Forestry, DEP
- Division of Fish, Game and Wildlife, DEP
- Division of Solid and Hazardous Waste, DEP
- Division of Water Quality, 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
- Department of Transportation
- Department of Community Affairs
- U.S. Environmental Protection Agency

1. Agency Participation in the Review of the September 13, 1994 Amendment

The following agencies did not object to the proposed amendment:

Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Green Acres Program, DEP
New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management
Department of Agriculture
Department of Transportation
Department of Community Affairs

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

Office of Air Quality Management, DEP
Division of Enforcement, DEP
Land Use Regulation Element, DEP
Department of Health
U.S. Environmental Protection Agency

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

Division of Water Quality, DEP
Division of Solid and Hazardous Waste, DEP

2. Issues of Concern Regarding the September 13, 1994 Amendment

Issue: Regulatory Requirements

If any operation of a recycling center will discharge pollutants as defined at 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 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 or 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.

Issue: Historical Background

In a February 13, 1991 amendment, certified on February 22, 1993, Advanced Enterprises Recycling, Inc. was included within the County Plan as a recycling center for Class B materials. The February 22, 1993 certification specified a site location (Block 5070, Lots 25 and 43) and restricted the applicant to only accepting wood related waste. The September 13, 1994 amendment proposes a facility site expansion onto an adjacent lot (Block 5070, Lot 41) to provide for increased capacity for the acceptance of grass clippings. Pursuant to the Department's recycling regulations, recycling centers which process Class B materials may only accept nonputrescible waste. Grass is considered a putrescible waste and, as such, must be accepted at a compost facility and may not be accepted at a recycling center for Class B materials.

In an August 10, 1993 preapplication conference held with the applicant to discuss the proposed facility expansion, the DEP notified the applicant that to accept grass clippings he would need to apply for a compost facility permit rather than an expansion to his existing recycling center for Class B materials. Further, in a February 28, 1995 telephone conversation the DEP notified the County solid waste coordinator of the possible redesignation of the expansion site to a compost facility so as to not require a completely new planning process by the County Freeholders.

Therefore, within Section C. of the certification, the amendment is approved with modification by designating Advanced Enterprises Recycling, Inc. within the County Plan as a compost facility, in addition to its previous designation as a recycling center for Class B materials, to provide for the acceptance of grass clippings.

C. Certification of the September 13, 1994 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 September 13, 1994 amendment to the approved County Plan and certify to the County Freeholders that the September 13, 1994 amendment is approved with modification as further specified below.

The County Plan inclusion of a site expansion of Advanced Enterprises Recycling, Inc. located at 540 Doremus Avenue to include Block 5070, Lot 41 in Newark, Essex County for the acceptance of up to 100 tons per day of grass clippings is approved with modification. Specifically, the Department approves the inclusion of the site expansion to allow Advanced Enterprises Recycling, Inc. to accept grass clippings but modifies the amendment so that the entire Advanced Enterprises Recycling, Inc. site (Block 5070, Lots 25, 41, and 43 in Newark) is designated as

a compost facility in addition to its previous designation as a recycling center for Class B materials. Advanced Enterprises Recycling, Inc. must apply for and receive a compost facility permit prior to the acceptance of grass clippings at the site insofar as its existing recycling center approval does not, and can not, authorize Advanced Enterprises Recycling, Inc. to accept grass clippings. The facility's present status as a recycling center for Class B materials approved to accept 350 tons per day of wood related waste remains unchanged.

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. This certification shall not be construed as an expression of the Department's intent to issue a solid waste facility permit for any facility or operation.

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 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 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, 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.

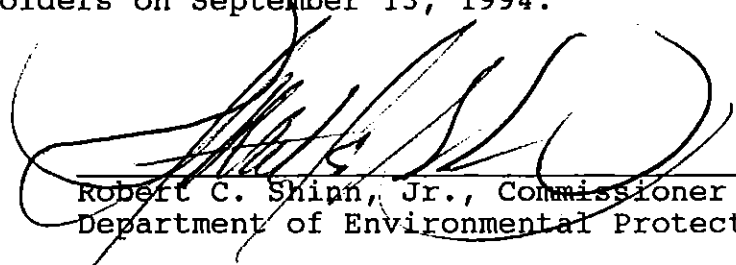
7. Reservation of Authority

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 DEP, 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 Essex County District Solid Waste Management Plan which was adopted by the Essex County Board of Chosen Freeholders on September 13, 1994.

3/21/95
Date


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