



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL
PROTECTION AND ENERGY

CHRISTINE TODD WHITMAN
Governor

ROBERT C. SHINN, JR.
Commissioner

IN THE MATTER OF CERTAIN AMENDMENTS
TO THE ADOPTED AND APPROVED SOLID
WASTE MANAGEMENT PLAN OF THE
HMDC SOLID WASTE MANAGEMENT
DISTRICT

CERTIFICATION
OF THE JUNE 22, 1994
AMENDMENT TO THE HMDC DISTRICT
SOLID WASTE MANAGEMENT PLAN

BY ORDER OF THE COMMISSIONER:

A. Introduction

The New Jersey Solid Waste Management Act (N.J.S.A. 13:Le-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 July 31, 1980, the Department of Environmental Protection (Department or DEP) approved with modifications the HMDC District Solid Waste Management Plan (District 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 District Plan at any time and, if found inadequate, a new District Plan must

be adopted. The HMDC completed such a review and on June 22, 1994, adopted an amendment to its approved District Plan.

The amendment includes within the District Plan the relocation from the Town of Kearny to North Bergen Township of the recycling portion of the AGA Wood Recycling & Alexander's Pallets, Inc. facility. The facility proposes to process Class B materials including wooden pallets and diminimus amounts of paper and metal from the pallets.

The amendment was received by the Department on August 3, 1994 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 HMDC Commissioners on June 22, 1994 is approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the June 22, 1994 amendment to the District 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 HMDC Commissioners and the applicant are notified of the issues of concern relative to the June 22, 1994 amendment which are included in Section B.2. below.

In conjunction with the review of the amendment, the Department circulated copies to fourteen 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. These agencies are the following:

Office of Air Quality Management, DEP
Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Division of Solid Waste Management, DEP
Green Acres Program, DEP
Land Use Regulation Element, DEP
Division of Water Quality, 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 June 22, 1994 Amendment

The following agencies did not object to the proposed plan amendment:

Green Acres Program, DEP
New Jersey Turnpike Authority
Department of Agriculture
Department of Community Affairs

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

Division of Parks and Forestry, DEP
Land Use Regulation Element, DEP
New Jersey Advisory Council on Solid Waste Management
Department of Health
Department of Transportation
U.S. Environmental Protection Agency

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

Office of Air Quality Management, DEP
Division of Fish, Game and Wildlife, DEP
Division of Solid Waste Management, DEP
Division of Water Quality, DEP

2. Issues of Concern Relative to the June 22, 1994 Amendment

Issue: Permit Requirements

The site appears to be adjacent to New Jersey's only inland colonial waterbird nesting site, which is known as Kearny Marsh. Accordingly, the operation of this facility may result in potential disturbance associated impacts to this unique and significant nesting colony during the breeding season. Therefore, in order to evaluate the total potential impact of the facility on the wildlife habitat provided by Kearny Marsh, a more detailed description of the facility site and operation must be provided as part of the Class B approval process undertaken by the Department's Division of Solid Waste Management.

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 and 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.

Finally, if the proposed operation will discharge pollutants as defined in N.J.A.C. 7:14A-1.9, said operation must secure a New Jersey Pollution Discharge Elimination System Permit and/or Treatment Works Approval for pollutant discharges prior to construction or operation.

C. Certification of the HMDC 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 22, 1994 amendment to the approved District Plan and certify to the HMDC Commissioners that the June 22, 1994 amendment is approved as further specified below.

The District Plan inclusion of the relocation of a portion of the AGA Wood Recycling & Alexander's Pallet, Inc. facility from its existing site at 3445 Paterson Plank Road, Block 451C, Lot 22H in the Township of North Bergen, Hudson County, to Bergen Avenue, Block 286, Lots 5 and 6A, in the Town of Kearny, Hudson County is approved. As noted in the amendment, the facility will accept 100 tons per day of Class B materials including wooden pallets and diminimus amounts (less than a ton a day) of metal and paper from the wooden pallets. Also, the amendment indicates that the pulverized wood is used as particle board, mulch, a bulking agent in composting facilities, boiler fuel, and animal bedding. No chemically treated, painted, stained, or dyed industrial wood is accepted.

With regard to the use of pulverized wood as boiler fuel, the applicant is advised that according to the Recycling Regulations at N.J.A.C. 7:26A-1 et seq., boiler fuel is not considered as an end market for recyclables. Therefore, this management option should only be utilized to the extent that sufficient recycling end markets are unavailable.

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.

Additionally, the construction or operation of a recycling center which receives, stores, processes or transfers Class B recyclable materials, as defined at N.J.A.C. 7:26A-1.3, shall be preceded by the acquisition of the necessary approval pursuant to N.J.A.C.

and guidelines, including N.J.A.C. 7:26A-4. Pursuant to N.J.A.C. 7:26A-4.1(a)1.iii, Class A recyclable material may be commingled only with other Class A recyclable materials. 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.

Finally, any residue generated as a result of the operation of the recycling center handling only Class B materials shall be disposed of pursuant to the District Plan and the Interdistrict and Intradistrict Solid Waste Flow Rules (N.J.A.C. 7:26 et seq.).

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 District 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 District 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 District and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the District 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 District 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 the Implementation of the Plan Amendment

This document shall serve as the certification of the Commissioner of the Department to the HMDC and pursuant to N.J.S.A. 13:1E-24c and f, the District 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 District Plan contained herein shall take effect immediately.

7. Reservation of Authority

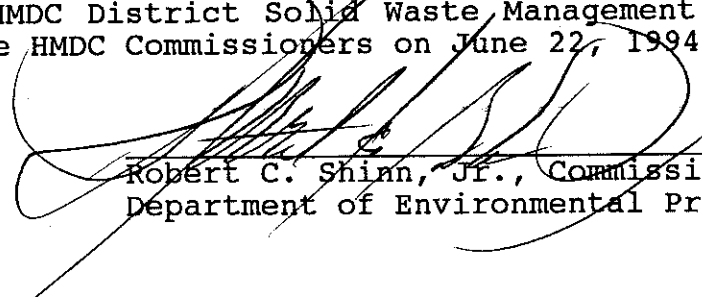
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The District Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the Department, 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 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 HMDC District Solid Waste Management Plan which was adopted by the HMDC Commissioners on June 22, 1994.

Date

9/25/94


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