



State of New Jersey

Christine Todd Whitman
Governor

Department of Environmental Protection
Office of the Commissioner
P.O. Box 402
Trenton, NJ 08625-0402
Tel. # 609-292-2885
Fax. # 609-292-7695

Robert C. Shinn, Jr.
Commissioner

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

CERTIFICATION
OF THE DECEMBER 10, 1998
AMENDMENT TO THE UNION 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 Union 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 Union County Board of Chosen Freeholders (County Freeholders) completed such a review and on December 10, 1998, adopted an amendment to its approved County Plan.

The amendment proposes a strategy for the assessment and collection of an Environmental Investment Charge (EIC) based upon actual tonnages of solid waste to be determined from daily records maintained by facilities accepting Union County waste in lieu of in-county weighing of such waste at County designated weigh station facilities.

The amendment was received by the Department on January 5, 1999 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 December 10, 1998 is approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the December 10, 1998 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 December 10, 1998 amendment 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 Water Quality Management, DEP
Division of Parks and Forestry, DEP
Division of Fish, Game 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
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 December 10, 1998 Amendment

The following agencies did not object to the proposed amendment:

Division of Parks and Forestry, DEP
Division of Water Quality Management, DEP
Land Use Regulation Element, DEP
Green Acres Program, DEP
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 Fish, Game and Wildlife, DEP
Division of Compliance and Enforcement, DEP
New Jersey Advisory Council on Solid Waste Management
Department of Health
U.S. Environmental Protection Agency
New Jersey Turnpike Authority

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 December 10, 1998 Amendment

Issue: Historical Background for Imposition of the EIC

In an amendment adopted on December 18, 1997, the County initially proposed the concept of imposing an EIC to be assessed against all solid waste generators of waste types 10 and 25 from within Union County that elect not to utilize the Union County Resource Recovery Facility (UCRRF). Any transporter not utilizing the UCRRF was to pass through designated weighing facilities before removing processible waste from Union County for out-of-county disposal. In a certification dated April 30, 1998, the Department approved the imposition of the EIC but approved with modification the designation of in-county weighing facilities contingent upon receipt and approval by the DEP of an administrative action designating said facilities. On July 14, 1998, the County requested Department approval of an administrative action which designated the USA Waste, Inc. Transfer Station and the Plainfield Municipal Utilities Authority Transfer Station located, respectively, in Elizabeth and Plainfield, Union County, as in-district weighing facilities. In a letter dated August 7, 1998, the DEP approved via

administrative action the designation of these two transfer stations as in-district weighing facilities. Finally, as noted within the July 20, 1998 certification of the May 21, 1998 amendment, should the County opt to continue collecting the EIC after June 30, 1999, the County may submit such a request to the Department as an administrative action pursuant to N.J.A.C. 7:26-6.11(b)10.

Issue: Need for the December 10, 1998 Amendment

Since the designation of the above noted transfer stations as in-district weighing facilities, there has been a general lack of compliance by solid waste transporters weighing-in at the designated facilities prior to disposal of waste outside of Union County. As a result of this noncompliance, the County adopted the December 10, 1998 amendment as an alternative to in-county weighing to facilitate the imposition and collection of the EIC. The County has determined that a more effective method would be to assess the EIC based upon actual tonnages of solid waste delivered to solid waste facilities as determined from daily records that are required to be maintained by facilities and made available for inspection pursuant to N.J.A.C. 7:26-2.13(a) and (b). Specifically, in accordance with N.J.A.C. 7:26-2.13(a), such records must:

- *identify the solid waste facility;
- *identify the transporter;
- *specify the amount of solid waste received by waste type;
- *specify the date and time of delivery;
- *specify the license plate number and State initials of the vehicle; and
- *specify the place of origin of the waste by municipality and county.

Pursuant to N.J.A.C. 7:26-2.13(b), this daily record shall be available for inspection by representatives of the Department or county lead agency certified by the DEP, pursuant to N.J.S.A. 26:3A-2 (County Environmental Health Act), for any county from which solid waste is received. On February 1, 1999, the Department approved the Union County Bureau of Environmental Health Enforcement as the new County Environmental Health Act agency in compliance with N.J.S.A. 26:3A-2. Therefore, the Bureau of Environmental Health Enforcement or its lawful designee is authorized to conduct facility records inspections.

The amendment lacks specifics on how the County will compile the tonnage data and impose the EIC. To obtain this information, counsel to the County Freeholders was contacted. She provided the following clarification. "The County intends to (1) identify those solid waste facilities accepting Union County solid waste as determined from monthly summary reports required

to be provided to DEP by the solid waste facilities; (ii) inspect and copy on a regular basis the daily records of those identified facilities; and (iii) bill on a monthly basis every hauler identified in the daily records as disposing of Union County solid waste at such facilities in an amount equal to the number of tons so disposed (as determined from the daily records) times Union County's authorized EIC."

Therefore, within Section C. of this certification, the Department approves the strategy for the assessment and collection of the EIC based upon actual tonnages of solid waste to be determined from daily records maintained by facilities accepting Union County waste in lieu of in-county weighing of such waste at County designated weigh station facilities. Also, the County is hereby directed to submit to the DEP on a semiannual basis for the duration of EIC collection a brief status report on the amount of EIC collected versus that projected. The County should contact the DEP's Division of Solid and Hazardous Waste to discuss the necessary components of this report.

C. Certification of the Union 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 December 10, 1998 amendment to the approved County Plan and certify to the County Freeholders that the December 10, 1998 amendment is approved as further specified below.

The County Plan inclusion of the strategy for the assessment and collection of the Environmental Investment Charge based upon actual tonnages of solid waste to be determined from daily records maintained by facilities accepting Union County waste in lieu of in-county weighing of such waste at County designated weigh station facilities is approved.

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.

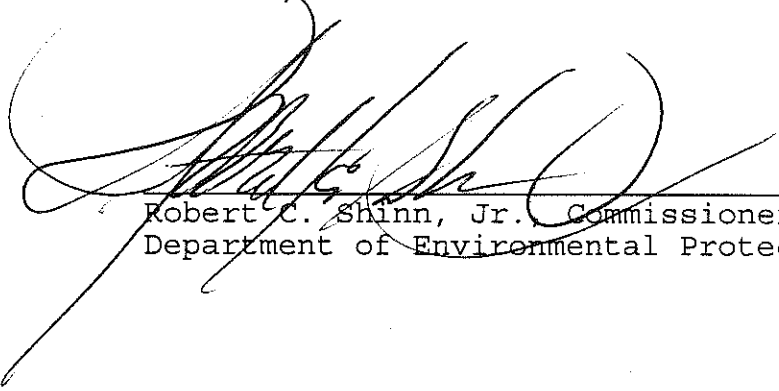
7. Reservation of Authority

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 Union County District Solid Waste Management Plan which was adopted by the Union County Board of Chosen Freeholders on December 10, 1998.

5/12/99
Date


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

