



## 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  
MERCER COUNTY SOLID WASTE  
MANAGEMENT DISTRICT**

**CERTIFICATION  
OF THE APRIL 27, 2000  
AMENDMENT TO THE MERCER 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 July 31, 1980, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Mercer 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 Mercer County Board of Chosen Freeholders (County Freeholders) completed such a review and on April 27, 2000 adopted an amendment to its approved County Plan. The April 27, 2000 amendment proposes County Plan inclusion of the Mercer Group, Inc. transfer station/materials recovery facility located in Ewing Township, Mercer County.

The amendment was determined to be administratively complete for review by the Department on May 24, 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 April 27, 2000 is approved in part and remanded in part as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the April 27, 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 the approved portions of this plan amendment are 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 April 27, 2000 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 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 and Senior Services  
Department of Transportation  
Department of Community Affairs  
U.S. Environmental Protection Agency

**1. Agency Participation in the Review of the April 27, 2000 Amendment**

The following agencies did not object to the proposed amendment:

Division of Fish and Wildlife, DEP  
Green Acres Program, DEP  
Department of Agriculture

New Jersey Turnpike Authority

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

Division of Water Quality, DEP  
Division of Parks and Forestry, DEP  
Land Use Regulation Element, DEP  
Office of Air Quality Management, DEP  
Department of Transportation  
Department of Health and Senior Services  
Department of Community Affairs  
New Jersey Advisory Council on Solid Waste Management  
U.S. Environmental Protection Agency

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

Division of Solid and Hazardous Waste, DEP  
Division of Compliance and Enforcement, DEP

## **2. Issues of Concern Regarding the April 27, 2000 Amendment**

### **Issue: County Materials Recovery Policy**

On August 21, 1997, the County adopted its initial amendment in response to the Atlantic Coast decision which proposed a strategy for nondiscriminatorily procuring transfer services. On November 10, 1997, the Department approved with modification the transfer station procurement process contingent upon receipt of documents awarding a nondiscriminatorily bid contract for said services. Within that certification the Department noted that if the contract awarded for transfer station services does not provide for materials recovery, it will have an adverse impact upon recycling rates achieved by the County. In an administrative action dated January 15, 1998, the Department approved the County's nondiscriminatory procurement process for transfer services. However, this administrative action approval noted that since the contract did not provide for materials recovery services, the County was directed to submit a narrative description of how it will meet the State's mandated recycling goals since no materials recovery facilities currently operate within Mercer County. In a subsequent administrative action dated February 17, 1998, the County responded to this directive by establishing a policy that all solid waste loads containing recyclables generated from within Mercer County shall be delivered to the Mercer County transfer station prior to materials recovery and all residue from the operation of a materials recovery facility be returned to the Mercer County transfer station for ultimate disposal. In a letter dated April 1, 1998, the Department approved the policy of all residue from the operation of a materials recovery facility being returned to the Mercer County transfer station for disposal but remanded as unworkable the policy that all solid waste loads containing recyclables generated from within Mercer County be delivered to the County transfer station prior to delivery to a materials recovery facility. While the

April 27, 2000 amendment continues the policy of requiring all Mercer County waste be delivered to the County transfer station for weighing and inspection prior to delivery to the Mercer Group transfer station/materials recovery facility and the applicant has agreed to abide by this policy, within Section C. of the certification this policy is remanded. As identified within the April 27, 2000 amendment, the justification for this policy is that the County anticipates that all residue from the operation of the Mercer Group, Inc. materials recovery facility (or any other such facility) will not be returned to the Mercer County transfer station for weighing and collection of a tipping fee thereby depriving the County of needed revenue to pay-off outstanding solid waste debt. The Mercer Group transfer station/materials recovery facility, as well as any other solid waste facility, must comply with the Department's reporting requirements found at N.J.A.C. 7:26-2.13(g). Also, N.J.A.C. 7:26-6.12(b) requires that all solid waste facility operators and transporters operate in compliance with the applicable County Plan. If, after one year of operation of the Mercer Group, Inc. transfer station/materials recovery facility, the County can demonstrate that these reporting and operational requirements do not provide adequate documentation that all Mercer County residue processed at the Mercer Group facility is being returned to the County transfer station, the Department will reconsider approval of this "double-weighing" policy. Such request may be initiated as an administrative action pursuant to N.J.A.C. 7:26-6.11(b)10.

#### **Issue: Additional Truck Traffic at the Mercer County Transfer Station**

The Department has determined that if the Mercer Group transfer station/materials recovery facility is permitted at 1,500 tons per day of waste, an additional 215 projected vehicles (as determined by the applicant's consultant using 6.9 tons per truck) would utilize the Mercer County transfer station if "double-weighing" were approved. This projection could be higher since the Department utilizes 3.5 tons per truck for waste type 13 and 13C loads. As a result of this projected additional truck traffic, the DEP would require the MCIA to conduct a new traffic impact assessment to determine if the primary intersections utilized to access the Mercer County transfer station are impacted resulting in a degradation of the levels of service at these intersections. Since the Department is not approving "double-weighing" at this time, this comment is only offered for informational purposes. If the DEP were to approve of this policy at a later date, this truck traffic issue would need to be addressed by both the applicant and the County.

#### **Issue: Diminimus Waste Acceptance Levels**

The amendment notes that the Mercer Group will limit to 10% by volume (diminimus amounts as described within the amendment) the acceptance of waste types 10 (municipal), 23 (vegetative), and 27 (industrial). The Department does not consider the acceptance of incidental (nonpermitted) waste types at a level of 10% by volume to constitute diminimus levels. Instead, the DEP considers permissible levels of extraneous waste types accepted as part of incoming loads to be 1-2% by volume, not 10%. This diminimus issue will be further addressed during the DEP's technical review phase of permit issuance.

C. **Certification of the Mercer 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 April 27, 2000 amendment to the approved County Plan and certify to the County Freeholders that the April 27, 2000 amendment is approved in part and remanded in part as further specified below.

The County Plan inclusion of the Mercer Group, Inc. transfer station/materials recovery facility located on Block 13, Lot 1 on Beakes Street off Calhoun Street in Ewing Township, Mercer County is approved. The facility may accept up to 1,500 tons per day of type 13 bulky waste (including type 13C construction and demolition waste) from both Mercer County and out-of-county sources. All residue generated from the operation of the Mercer Group transfer station/materials recovery facility shall be disposed of pursuant to the County Plan. Finally, the Mercer Group facility will not accept solid waste containing designated recyclables except as provided for in N.J.S.A. 13:1E-99.16.d. However, as noted within Section B. of this certification, the policy that all Mercer County generated solid waste will be delivered to the Mercer County transfer station located in Ewing Township, Mercer County for weighing and inspection prior to delivery to the Mercer Group, Inc. transfer station/materials recovery facility is remanded.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary 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 New Jersey 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 approval shall not be construed as an expression of the Department's intent to issue an approval to operate a solid waste facility.

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 portions 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 approved portions of the amendment to the County Plan contained herein shall take effect immediately.

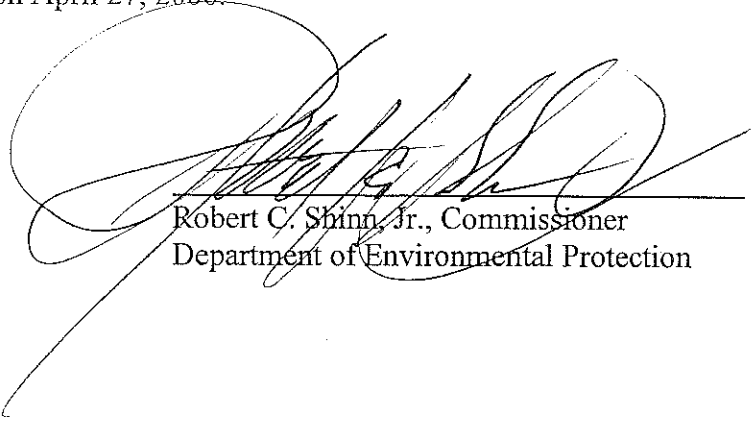
**7. Reservation of Authority**

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 DEP, and also includes the compilation of individual district plans and amendments as they are approved.

E. Certification of Approval and Remand 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 in part and remand in part the amendment, as outlined in Section C. of this certification, to the Mercer County District Solid Waste Management Plan which was adopted by the Mercer County Board of Chosen Freeholders on April 27, 2000.

10/5/00  
Date

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

