



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
MIDDLESEX COUNTY SOLID WASTE
MANAGEMENT DISTRICT**

**CERTIFICATION
OF THE JUNE 2, 1994
AMENDMENTS TO THE MIDDLESEX 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 29, 1980, the Department of Environmental Protection (Department or DEP) approved, with modifications the Middlesex 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. Amendments to the Act found in N.J.S.A. 13:1E-136 et seq. require, among other things, that counties amend their county plans to include an outline of the proposed uses of monies in the District Resource Recovery Investment Tax (RRIT) Fund, as well as a schedule of the disbursement of moneys in that fund.

The Middlesex County Board of Chosen Freeholders (County Freeholders) completed such a review and on June 2, 1994, adopted Amendments 1994-1, 1994-2, and 1994-3 to its approved County Plan. Amendment 1994-1 proposed the use of Resource Recovery Investment Tax (RRIT) Fund moneys for a Countywide curbside recycling program by means of the municipal recycling assistance program. Amendment 1994-2 reassigned the implementation responsibilities for the Countywide recycling program from the Middlesex County Department of Solid Waste Management to the Middlesex County Improvement Authority (MCIA) and designated additional mandated recyclables. Also provided within Amendment 1994-2 are explanations of certain components of the revised Countywide recycling program such as the collection strategy, funding mechanisms, marketing techniques, and implementation schedules for both this program and the interim yard waste and bulky waste programs. Further, this amendment adds steel cans, plastic containers, mixed paper, brush, and textiles to the County's list of designated recyclables. Finally, Amendment 1994-3 provided a disbursement schedule for the RRIT Fund moneys which will be used to finance many of the expenses incurred during the development and maintenance of the Countywide recycling program.

The June 2, 1994 amendments are in response to the Department's January 14, 1994 certification of the County's September 2, 1993 amendment. The DEP, in its January 14, 1994 certification, rejected the County's curbside collection program and associated disbursement of RRIT Fund moneys to finance it due to concerns for the program's viability and the large expenditure of public moneys to fund a program with such market uncertainties. Specifically, the program proposed the commingling for curbside collection of textiles, mixed paper, and newspaper. The Department was concerned that there are no known materials recovery operations which effectively sort this commingled stream or any end markets that would accept the potentially lower grade materials separated from such a commingled stream given the high probability of increased contaminants in such a mix.

The amendments were received by the Department on June 9, 1994 and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed these amendments and has determined that the amendments adopted by the County Freeholders on June 2, 1994 are approved as provided in N.J.S.A. 13:1E-24.

B. Findings and Conclusions with Respect to the Middlesex County District Solid Waste Management Plan Amendments

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the June 2, 1994 amendments to the County Plan according to the objectives, criteria and standards developed in the Statewide Solid Waste Management Plan and N.J.S.A. 13:1E-150 and I find and conclude that these plan amendments are consistent with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders are notified of the issues of concern relative to the June 2, 1994 amendments which are included in Section B.2. below.

In conjunction with the review of these amendments, 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 include 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 2, 1994 Amendments

The following agencies did not object to the proposed amendments:

Office of Air Quality Management, 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

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

Division of Parks and Forestry, DEP
Land Use Regulation Element, DEP
Division of Water Quality, DEP

Department of Health
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 Waste Management, DEP

2. Issues of Concern Relative to the June 2, 1994 Amendments

Issue: Countywide Curbside Collection Program

As noted above, in the Department's January 14, 1994 certification of the September 2, 1993 amendment, the County's proposed program for the curbside collection, processing, and marketing of commingled recyclables was rejected. The program required that materials be commingled with two source separations: paper separation consisting of commingled cardboard, newspaper, mixed paper, and textiles; and a container separation consisting of commingled steel, aluminum, glass, and plastic. The DEP was concerned that there are no known local, regional, or national materials recovery operations which effectively sort commingled cardboard, newspaper, mixed paper, and textiles. Also, the Department was not aware of end markets that would accept the potentially lower grade materials separated from such a commingled stream given the high probability of increased contaminants in such a mix. Finally, the Department was concerned for the large expenditure of public (RRIT Fund) moneys necessary to finance the program given the marketing uncertainties inherent in the proposal. Therefore, the County was directed to submit within 180 days in a subsequent plan amendment a revised collection, processing, and marketing strategy for designated recyclables that addressed the Department's concerns as well as those of the private sector (Garden State Paper Company). The County was directed to submit the required amendment by July 14, 1994 and it was received on June 9, 1994.

Amendment 1994-2 addresses the deficiencies noted within the January 14, 1994 certification by adopting a revised curbside collection program. The County will secure a master contract with a private contractor to provide the curbside collection program. This revised program requires that mixed paper, newspaper, corrugated cardboard, and textiles be placed separately for curbside collection. Further, the County will permit those municipalities which choose to retain all or a portion of their present recycling practices to do so provided they comply with the County's recycling requirements. That is, that all designated materials are collected, all recyclables are compatible and processible, and all collections are documented. Finally, all existing marketing contracts will be honored although these contracts may be renegotiated through the MCIA as a contracting

party to secure more long-term contracts. This strategy is sufficient in addressing the concerns of both the Department and Garden State Paper. Therefore, as noted in Section C., Amendment 1994-2 is approved.

Amendment 1994-2 also indicates the County's intention to utilize a private materials recovery facility capacity to process the commingled recyclables or, if found inadequate, the MCIA will investigate the development of a County owned materials recovery facility. It appears that the collection program under consideration would involve the use of a recycling center for Class A recyclables (N.J.A.C. 7:26A-1.3). The County is hereby advised that a materials recovery facility, as defined at N.J.A.C. 7:26-1.4, is a solid waste facility that processes a nonhazardous solid waste stream through manual or mechanical means to separate recyclables from solid waste. Therefore, for clarification purposes the Department recognizes the concept of a recycling center for Class A recyclables and urges the County to prepare future amendments addressing this concept, consistent with the definitions found at N.J.A.C. 7:26-1.4, in order to minimize any confusion in the event the County chooses to develop materials recovery facility capacity for solid waste in the future.

Finally, Amendment 1994-2 references incorporating the positive aspects of both the 1991 Recycling Feasibility Study and the 1993 Recycling Facilities Implementation Plan. This certification shall not be construed as an approval of any specific details contained within either of these documents.

Issue: RRIT Fund Use and Disbursement Schedule

In the June 4, 1993 certification of the December 28, 1992 plan amendment, the Department approved the County's RRIT Fund use of and disbursement schedule for the County's Municipal Recycling Assistance Program (MRAP). Under the MRAP, the 25 municipalities within the County receive RRIT Fund moneys according to a specified formula to reduce operational costs of recycling programs and tipping rates at recycling centers. However, the certification only approved the disbursement of \$ 3,055,000.00 and directed the County to receive the Department's approval for the disbursement of the remaining RRIT Fund balance to finance the MRAP. Amendment 1994-1 proposes a one-time disbursement of an additional \$ 3,055,000.00 in RRIT Fund moneys for program year 1994 to finance the County's MRAP using the same disbursement formula as approved within the June 4, 1993 certification.

Amendment 1994-3 proposes a RRIT Fund disbursement of \$5,000,000.00 a year for program years 1995-1999 to supplement a master contract for recyclable materials collection, processing, and marketing costs. The MCIA proposes to reduce the cost of each municipal recycling program by providing grants with fully participating municipalities receiving more funding than those municipalities

that select less than full participation.

Finally, it must be noted that the County has projected RRIT Fund revenues and disbursements through 1999 when this program is scheduled to sunset on January 1, 1996. Any extension of the program beyond that date would require legislative action.

C. Certification of the Middlesex County District Solid Waste Management Plan Amendments

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 and N.J.S.A. 13:1E-150 which establishes uses and disbursement schedule requirements for a district RRIT Fund, I have reviewed the June 2, 1994 amendments to the approved County Plan and certify to the County Freeholders that the June 2, 1994 amendments are approved as further specified below.

1. 1994-1 Amendment

The County Plan inclusion of a one-time disbursement for program year 1994 of \$ 3,055,000.00 of RRIT Fund moneys to finance the Countywide recycling program by means of the Municipal Recycling Assistance Program using the same formula approved within the Department's June 4, 1993 certification of the County's December 28, 1992 amendment is approved. This prescribed use and disbursement schedule is consistent with the requirements of N.J.S.A. 13:1E-150(b) and (c), respectively, and is therefore approved.

2. 1994-2 Amendment

The County Plan inclusion of a revised Countywide program for the collection, processing, and marketing of commingled recyclables is approved. This amendment, which is in response to Department directives identified within the DEP's January 14, 1994 certification, proposes a revised curbside collection program that requires that mixed paper, newspaper, corrugated cardboard, and textiles remain separate for curbside collection. The County will secure a master contract with a private contractor to provide the curbside collection but all existing marketing contracts will be honored. This revised collection strategy addresses the concerns of both the Department and the private sector as articulated within Section B. of the certification. The County anticipates the awarding of the master contract by January 1995.

The County Plan inclusion of the reassignment of implementation responsibilities for the Countywide recycling program from the Middlesex County Department of Solid Waste Management to the Middlesex County Improvement Authority (MCIA) is approved. This reassignment of implementation responsibilities authorizes the MCIA

to both receive and disburse RRIT Fund moneys.

The County Plan inclusion of implementation schedules for the interim yard waste and bulky waste recycling programs is approved. Specifically, the County anticipates awarding a contract to a private contractor by November 1994 to manage and operate existing compost sites within the County. Also, the County anticipates the construction of a bulky waste recycling facility at the site of the Middlesex County Landfill in East Brunswick Township by June 1996.

The County Plan inclusion of additional designated recyclables is approved. Specifically, the materials mandated to be recycled within Middlesex County are as follows:

- Newspaper*
- Glass containers*
- Aluminum cans*
- High grade office paper*
- Corrugated cardboard*
- Steel cans
- Plastic containers
- Mixed paper
- Leaves*
- Motor oil*
- Brush
- Textiles

* Denotes previously designated materials

3. 1994-3 Amendment

The County Plan inclusion of an annual disbursement of \$5,000,000.00 of RRIT Fund moneys for program years 1995-1999 to supplement a master contract for recyclable materials for the Countywide recycling program is approved through program year 1996. Thereafter, the use and disbursement schedule is conditionally approved contingent upon the State legislature extending the RRIT Fund program through 1999. This prescribed use and disbursement schedule is consistent with the requirements of N.J.S.A. 13:1E-150(b) and (c), respectively, and is therefore approved as noted.

D. Other Provisions Affecting the Plan Amendments

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with these amendments 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 these amendments and of the County Plan if such renegotiation is not completed within ninety (90) days of the effective date of these amendments 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 amendments contained herein shall operate in compliance with these amendments 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 the Implementation of the Plan Amendments

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 amendments certified herein.

5. Definitions

For the purpose of these amendments 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 Amendments

The amendments contained herein shall take effect immediately.

7. Reservation of Authority

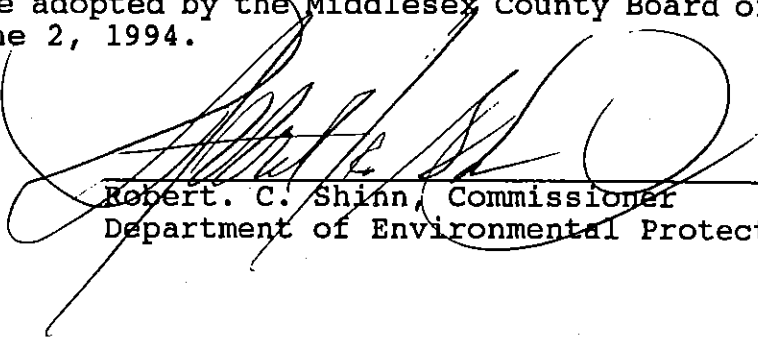
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the Department, 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 Amendments 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 amendments, as outlined in Section C. of this certification, to the Middlesex County District Solid Waste Management Plan which were adopted by the Middlesex County Board of Chosen Freeholders on June 2, 1994.

Date

10/3/94


Robert C. Shinn, Commissioner
Department of Environmental Protection