



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 SEPTEMBER 7, 1995
AMENDMENT 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 (DEP or Department) 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. The Middlesex County Board of Chosen Freeholders (County Freeholders) completed such a review and on September 7, 1995, adopted an amendment to its approved County Plan.

The amendment (Amendment 1995-4) revises the countywide curbside collection program by allowing the County and/or municipalities to place bundled and tied old newspaper, mixed paper, bundled and tied corrugated cardboard, and bagged textiles in one collection vehicle provided that end markets have been established for the material and the paper collected is materials recovery facility compatible and processible. The amendment also requires that these materials continue to be source separated and placed separately at the curb as specified in Amendment 1994-2.

The amendment was received by the Department on September 20, 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 7, 1995 is 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 Amendment

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the September 7, 1995 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 issue of concern relative to the September 7, 1995 amendment which is identified in Section B.2. below.

In conjunction with the review of the amendment, the Department circulated copies to fifteen State and Federal 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 Parks and Forestry, DEP
- Division of Fish, Game and Wildlife, DEP
- Division of Enforcement, DEP
- Division of Solid and Hazardous Waste, 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 September 7, 1995 Amendment

The following agencies did not object to the proposed amendment:

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

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

Division of Solid and Hazardous Waste, DEP

2. Issue of Concern Regarding the September 7, 1995 Amendment

Issue: Historical Background

In the Department's January 14, 1994 certification of the County's September 2, 1993 amendment (Amendment 1993-4), Middlesex County's initial program for the curbside collection, processing, and marketing of commingled recyclables was rejected. This program required that materials be commingled with two source separations: a separation consisting of commingled cardboard, newspaper, mixed paper, and textiles; and a container separation consisting of commingled steel, aluminum, glass, and plastic. The 1993 amendment did not specify whether any materials would be tied, bundled, or bagged prior to being placed in the collection vehicle. Further, materials would then have been placed in two separate compartments within a collection vehicle. The DEP was concerned that there was no known local, regional, or national materials recovery operations which could 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 moneys necessary to finance the program given the marketing uncertainties inherent in the proposal. Therefore, the January 14, 1994 certification rejected the countywide curbside collection program proposed within the September 2, 1993 amendment and directed the County to submit within a subsequent plan amendment a revised collection, processing, and marketing strategy for designated recyclables which addressed the concerns of the DEP as well as those of the private sector.

On June 2, 1994, the County adopted Amendment 1994-2 to address the deficiencies noted within the January 14, 1994 certification and proposed a revised curbside collection program. Specifically, the County would secure a master contract with a private contractor to provide the curbside collection program. The revised program, which is now operating, requires that mixed paper, newspaper, corrugated cardboard, and textiles be source separated and placed separately for curbside collection. These materials are then placed in separate compartments within a collection vehicle. Further, the County permits those municipalities which choose to retain all or a portion of their current 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 municipal marketing contracts are being honored although these contracts may be renegotiated by the Middlesex County Improvement Authority as a contracting party to secure long-term contracts. The Department approved the revised curbside collection program identified within Amendment 1994-2 in its October 4, 1994 certification.

The County's most recent amendment (Amendment 1995-4) proposes to revise the countywide curbside collection program by allowing the County and/or municipalities to place bundled and tied old newspaper, loose mixed paper, bundled and tied corrugated cardboard, and bagged textiles in one collection vehicle (as noted, currently each material is compartmentalized within a collection vehicle) provided that end markets have been established for the material and the paper collected is materials recovery facility compatible and processible. This amendment has been adopted to provide the County and municipalities with some flexibility in operating their collection system while still meeting the minimum standards of the program in terms of materials to be collected and requiring that the materials continue to be source separated and placed separately for curbside collection.

Unlike the 1993 amendment which allowed materials to be loosely commingled within the collection vehicle, the County's September 7,

1995 amendment requires that certain designated recyclables be tied, bundled, or bagged before each are commingled within one compartment of the collection vehicle. This bundling requirement will facilitate the processing of the designated materials at a recycling center. Therefore, as noted in Section C., the Department approves amendment 1995-4.

However, the County is hereby advised that to facilitate adapting to changing market conditions and to encourage progressive recycling programs, it is not necessary for the County to initiate the formal plan amendment process to affect minor changes in its countywide curbside collection program. The DEP need only be informed by letter of such revisions by the Middlesex County Improvement Authority, or any subsequently designated implementation agency. Further, the amendment incorrectly refers to paper being materials recovery facility compatible and processible. Pursuant to N.J.A.C. 7:26-1.4, a materials recovery facility is a solid waste facility that processes a nonhazardous solid waste stream through mechanical or manual means to separate recyclables from solid waste. A recycling center, according to N.J.A.C. 7:26A-1.3, is a facility designed and operated solely for receiving, storing, processing, or transferring source separated recyclable materials. The collection program envisioned for the County involves the use of a recycling center, not a materials recovery facility. Specifically, a recycling center for Class A materials since the designated recyclables are all classified as Class A materials. Therefore, within Section C., the certification has replaced "materials recovery facility" with "Class A recycling center".

C. Certification of the Middlesex 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 September 7, 1995 amendment to the approved County Plan and certify to the County Freeholders that the September 7, 1995 amendment (Amendment 1995-4) is approved as further specified below.

The County Plan inclusion of a revised countywide curbside collection program for the collection, processing, and marketing of commingled recyclables is approved. Specifically, Amendment 1995-4 allows the County and/or municipalities to place bundled and tied old newspaper, loose mixed paper, bundled and tied corrugated cardboard, and bagged textiles in one collection vehicle provided that end markets have been established for the material and the paper collected is compatible and processible at a Class A recycling center. The amendment also requires that these materials continue to be source separated and placed separately at the curb as specified in the County's Amendment 1994-2.

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 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

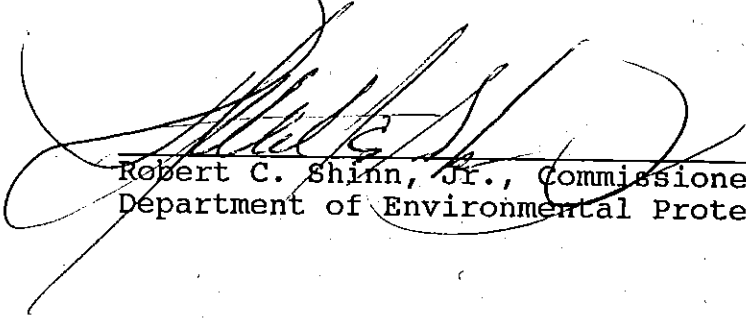
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the Department, 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 Middlesex County District Solid Waste Management Plan which was adopted by the Middlesex County Board of Chosen Freeholders on September 7, 1995.

Date

1/23/96


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