



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
MORRIS COUNTY SOLID WASTE
MANAGEMENT DISTRICT**

**CERTIFICATION
OF THE JUNE 8, 1994
AMENDMENT TO THE MORRIS 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 January 29, 1981, the Department of Environmental Protection (DEP) approved, with modifications, the Morris 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 moneys in the District Resource Recovery Investment Tax (RRIT) Fund, as well as a schedule for the disbursement of the moneys in that fund.

The Morris County Board of Chosen Freeholders (County Freeholders) completed such a review and on June 8, 1994, adopted an amendment to its approved County Plan. The amendment clarified the allowable operating capacities for the two Morris County Municipal Utilities Authority (MCMUA) owned transfer stations/materials recovery facilities and specified the proposed use of and disbursement schedule for the RRIT Fund. Regarding the RRIT Fund, the County proposed to utilize RRIT Fund moneys for development of its solid waste system comprising a bulky waste processing facility, a mixed waste processing facility, a solid waste composting facility, and a recycling facility.

The amendment was received by the Department of Environmental Protection (Department or DEP) on June 13, 1994, and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed this amendment, as well as the entire County Plan, and has determined that the amendment adopted by the County Freeholders on June 8, 1994 is approved in part and modified in part as provided in N.J.S.A. 13:1E-24. Also, outstanding planning deficiencies have been identified within Section C. of this certification.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the June 8, 1994 amendment 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 the approved portion of 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 June 8, 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 as follows:

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 8, 1994 Amendment

The following agencies did not object to the proposed amendment:

Office of Air Quality Management, DEP
Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Green Acres Program, DEP
New Jersey Advisory Council on Solid Waste Management
New Jersey Turnpike Authority
Department of Agriculture

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

Land Use Regulation Element, DEP
Division of Water Quality, DEP
Department of Health
Department of Transportation
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 8, 1994 Amendment

Issue: Historical Permitting Background

The two MCMUA transfer stations/materials recovery facilities, which are located in Mount Olive and Parsippany-Troy Hills Townships, were included within the County Plan in an April 1, 1987 amendment. This amendment, which was certified by the Department on July 28, 1987, included the Mount Olive site at 510 tons per day (TPD) and the Parsippany-Troy Hills site at a capacity designed to handle the balance of the County's waste stream or about 1,000 TPD. The MCMUA has submitted applications to the Department for solid waste facility permits (previously the facilities were issued Master Performance Permits by the DEP) which call for a 650 TPD

capacity for the Mount Olive Transfer Station/Materials Recovery Facility and a 1,150 TPD capacity for the Parsippany-Troy Hills Transfer Station/Materials Recovery Facility. Since the capacities for these facilities identified in the permit applications must be consistent with those specified in the County Plan, the County has adopted the June 8, 1994 amendment to clarify this issue.

Issue: Clarification of RRIT Fund Use and Disbursement Schedule

The June 8, 1994 amendment specifies the proposed use of and disbursement schedule for RRIT Fund moneys for development of the County's proposed solid waste system comprising a bulky waste processing facility, a mixed waste processing facility, a solid waste composting facility, and a recycling facility. Since the adoption of the June 8, 1994 amendment, the MCMUA has signed a Memorandum of Understanding (MOU) with the Essex County Utilities Authority to deliver 225,000 tons annually of burnable waste to the Essex County Resource Recovery Facility for the next 25 years. This agreement represents a significant accomplishment by Morris County which would bring the County close to being self-sufficient in solid waste disposal. Further, in addition to promoting disposal self-sufficiency, if the MOU were to result in the signing of an interdistrict agreement between the two counties, the agreement would maximize existing disposal infrastructure and avoid substantial new debt associated with development of the four facilities comprising the County's solid waste system.

Consequently, to ascertain if the County was still considering development of its solid waste system, the DEP contacted the MCMUA by letter dated September 30, 1994. In response, by way of letter dated October 6, 1994, the MCMUA informed the Department that it will only pursue development of the proposed recycling facility at this time pending the outcome of the Morris/ Essex negotiations. Concurrently, the MCMUA submitted an amended RRIT Fund disbursement schedule which allocates approximately \$3.5 million in RRIT Fund moneys for the development of the recycling facility. Therefore, as noted within Section C. of the certification, the RRIT Fund use and disbursement schedule is approved with modification contingent upon the submission by the County of a plan amendment designating a site for the proposed recycling facility and the formulation of the revised purpose and disbursement schedule for the RRIT Fund through the public hearing process.

C. Certification of the Morris 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 and N.J.S.A. 13:1E-150 which establishes uses and disbursement schedule requirements for a district RRIT Fund, I have reviewed June 8, 1994 amendment to the approved Morris County Plan and certify to the

Morris County Freeholders that the June 6, 1994 amendment is approved in part and modified in part as further specified below.

1. June 8, 1994 Amendment

a. Transfer Station Capacities

The County Plan inclusion of the clarification of the operating capacities of the two MCMUA transfer stations/materials recovery facilities is approved. Specifically, the approved maximum operating capacity for the Mount Olive Transfer Station/Materials Recovery Facility is 650 TPD and the approved maximum operating capacity for the Parsippany Troy-Hills Transfer Station/Materials Recovery Facility is 1,150 TPD.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals pursuant to N.J.S.A. 13:1E-1 et seq., and all applicable laws. The issuance of operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by 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. Further, this certification shall not be construed as an expression of the Department's intent to issue a solid waste facility permit.

b. RRIT Fund Use and Disbursement Schedule

The County Plan inclusion of the proposed RRIT Fund use and disbursement schedule to allocate approximately \$3.5 million in RRIT Fund moneys to develop the County's solid waste system is approved with modification. As noted within Section B., with the signing of the Essex/Morris MOU, the County will only proceed at this time with development of one of the four projects comprising the solid waste system; i.e., the recycling facility. Further, the MCMUA has submitted an amended RRIT Fund disbursement schedule which allocates RRIT Fund moneys for the development of the recycling center and the 2% annual disbursement for administrative costs. Therefore, given the revised direction of the County, the DEP approves with modification the RRIT Fund use and disbursement schedule contingent upon the submission by the County of a plan amendment designating a site for the proposed recycling facility and the formulation of the revised purpose and disbursement schedule for the RRIT Fund through the public hearing process.

2. Morris County District Solid Waste Management Plan Deficiencies

In the August 25, 1993 certification of the County's March 10, 1993 amendment, the Department modified that portion of the amendment which included the County's 10 year out-of-state disposal contract with Waste Management of Pennsylvania, Inc. contingent upon the County submitting a comprehensive and detailed in-state disposal plan and a copy of the Waste Management contract. The County was

directed to provide to the DEP within 180 days (or by February 25, 1994) in a subsequent plan amendment submission a time-line with specific milestones for siting and developing in-county disposal facilities or for entering into regional agreements for the shared use of existing or planned in-state disposal capacity. To date, the required amendment and contract have not been submitted. Also, the August 25, 1993 certification required that specific schedules for accomplishing certain initiatives relative to the State requirements for source reduction, recycling, and regionalization were to have been provided in plan amendment form within 180 days. To date, this amendment has also not been received. Therefore, the County is directed to immediately submit an amendment in response to all the above noted deficiencies.

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 the approved portion of this amendment to the County Plan and which was executed prior to the approval of the approved portion 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 the approved portion 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 DEP, 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 approved portion of this amendment contained herein shall operate in compliance with the approved portion of 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 DEP 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 portion 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 portion of the amendment to the County Plan contained herein shall take effect immediately.

7. Reservation of Authority

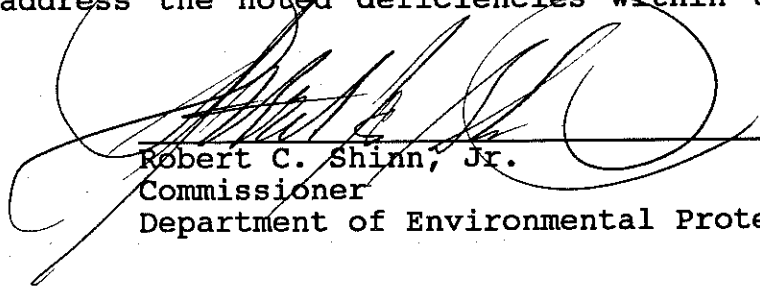
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the 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 In Part and Modification In Part of the Amendment and Notification of Deficiencies 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 modify in part the amendment, as outlined in Section C. of this certification, to the Morris County District Solid Waste Management Plan which was adopted by the Morris County Board of Chosen Freeholders on June 8, 1994. I hereby

also require, as noted in Section C, the Morris County Board of Chosen Freeholders to address the noted deficiencies within the timeframe specified.

10/17/94
Date


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