



State of New Jersey

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Office of the Commissioner
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**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 SEPTEMBER 11, 1996
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 or Department) 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. The Morris County Board of Chosen Freeholders (County Freeholders) completed such a review and on September 11, 1996, adopted an amendment to its approved County Plan.

The amendment proposed the County Plan inclusion of the use of and disbursement schedule for the County's Resource Recovery Investment Tax (RRIT) Fund. Specifically, the County proposes to use \$1.71 million of RRIT Fund moneys to support the debt payments for the County's two existing transfer stations/materials recovery facilities.

The amendment was received by the Department on October 7, 1996, 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 11, 1996 is approved as provided in N.J.S.A. 13:1E-24.

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 September 11, 1996 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 September 11, 1996 amendment which are included 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:

- Division of Water Quality, 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
- Office of Air Quality Management, 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 11, 1996 Amendment

The following agencies did not object to the proposed amendment:

Division of Parks and Forestry, DEP
Division of Enforcement, DEP
Division of Fish, Game and Wildlife, DEP
Green Acres Program, DEP
Department of Agriculture
Department of Community Affairs
New Jersey Turnpike Authority

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

Division of Water Quality, DEP
Land Use Regulation Element, DEP
Office of Air Quality Management, DEP
New Jersey Advisory Council on Solid Waste Management
Department of Health
Department of Transportation
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. Issues of Concern Regarding the September 11, 1996 Amendment

Issue: DEP Certification of June 26, 1996 Amendment

The September 11, 1996 amendment is a follow-up to an amendment adopted on June 26, 1996. Specifically, that earlier amendment initially proposed the uses of and a disbursement schedule for RRIT Fund monies for four activities comprising the County's curbside recycling collection program (existing), the permanent household hazardous waste collection facility (proposed), the recycling consolidation center (existing), and the two regional vegetative waste compost facilities (existing). However, upon final adoption of the amendment, the expenditure of \$1,710,000.00 for the purchase of additional vehicles for the County's curbside recycling collection program was deleted since this activity was not serving the entire county. The Department, in its certification of the amendment dated October 9, 1996, advised the County that the adoption of and approval by the DEP of a subsequent amendment identifying the use of and disbursement schedule for the remaining \$1.71 million of RRIT Fund moneys would be necessary. The amendment

adopted on September 11, 1996 addresses this directive by proposing the use of and disbursement schedule for \$1,710,000.00 of RRIT Fund moneys to support the debt payments for the County's two existing transfer stations/materials recovery facilities.

Issue: Eligible RRIT Fund Use

The Department, to determine whether the proposed RRIT Fund use is an eligible use, conducted an eligible use test. The Solid Waste Management Act at N.J.S.A. 13:1E-150b.(1) specifies that RRIT Fund moneys may be used "...to reduce the rates to all users of a resource recovery facility serving the county..." Further, N.J.S.A. 13:1E-137v. defines a resource recovery facility as "...a solid waste facility constructed and operated for the incineration of solid waste for energy production and the recovery of metals for reuse...or any other solid waste facility constructed or operated for the collection, separation, recycling, and recovery of...materials for reuse or energy production." Finally, the Department's solid waste regulations at N.J.A.C. 7:26-1.4 define a materials recovery facility as "...a solid waste facility such as a transfer station which is primarily designed, operated, and permitted to process a nonhazardous solid waste stream by utilizing manual and/or mechanical methods to separate from the incoming waste stream categories of useful materials which are then returned to the economic mainstream in the form of raw materials for product or reuse." Therefore, the use proposed within the September 11, 1996 amendment meets the RRIT Fund eligible use test and is, accordingly, approved in Section C. of this certification.

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, I have reviewed the September 11, 1996 amendment to the approved County Plan and certify to the County Freeholders that the September 11, 1996 amendment is approved as further specified below.

The County Plan inclusion of the RRIT Fund use and disbursement schedule for Program Years 1996 through 1998 is approved as follows:

PROGRAM	ALLOCATION	YEAR
Transfer Station/Materials Recovery Facility Debt Payment	\$667,500.00	1996
	\$667,500.00	1997
	\$375,000.00	1998
TOTAL DESIGNATED	\$1,710,000.00	

It must be noted that the ultimate conformance of the RRIT Fund use and disbursement schedule with the requirements of N.J.S.A. 13:1E-150 shall be the responsibility of Morris County.

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 waste, sewage sludge, septage, and hazardous waste. All nonhazardous materials separated at the point of generation for sale or reuse and all construction and demolition waste classified as Type 13C are excluded from the waste flows designated in the Interdistrict and Intradistrict Solid Waste Flow Rules set forth at N.J.A.C. 7:26-6, but are subject to regulation in accordance with N.J.A.C. 7:26A-1 et seq.

4. Certification to Proceed with Implementation of the 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 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

This amendment to the County Plan shall take effect immediately.

7. Audit Requirements

The County shall, by October 31 of each year in which moneys remain in its Resource Recovery Investment Tax Fund, file an audit of the fund and any expenditures therefrom with the Local Finance Board, Division of Local Government Services, Department of Community Affairs. The audit shall be conducted by an independent public accountant and a copy shall be provided to: Director, Division of Solid and Hazardous Waste, CN 414, Trenton, New Jersey 08625.

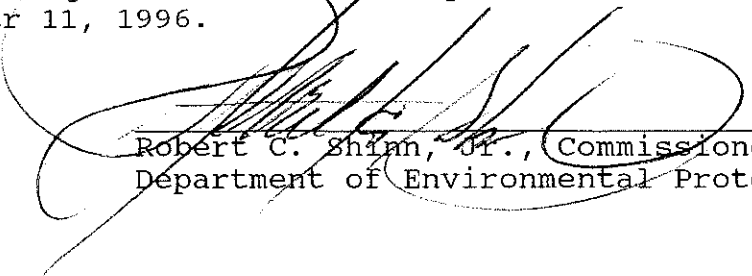
8. Reservation of Authority

Nothing contained herein shall be construed as a limitation on any other action taken by the DEP 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 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 Morris County District Solid Waste Management Plan which was adopted by the Morris County Board of Chosen Freeholders on September 11, 1996.

1/20/97
Date


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