



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL
PROTECTION AND ENERGY

CHRISTINE TODD WHITMAN
Governor

ROBERT C. SHINN, JR.
Commissioner

**IN THE MATTER OF CERTAIN AMENDMENTS
TO THE ADOPTED AND APPROVED SOLID
WASTE MANAGEMENT PLAN OF THE
SOMERSET COUNTY SOLID WASTE
MANAGEMENT DISTRICT**

**CERTIFICATION
OF THE JUNE 7, 1994
AMENDMENT TO THE SOMERSET 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 Somerset 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 for the disbursement of the monies in that fund.

The Somerset County Board of Chosen Freeholders (County Freeholders) completed such a review and on June 7, 1994, adopted an amendment to its approved County Plan. The amendment proposed uses of and a disbursement schedule for the RRIT Fund and the deletion of the closed Middlebush composting facility located in Franklin Township, Somerset County. Specifically, regarding the RRIT Program, the County intends to utilize RRIT Fund monies to design and construct a permanent household hazardous waste collection facility and to hire a consultant to investigate, analyze, and implement actions to stabilize and reduce the cost of solid waste services to the County.

The amendment was received by the Department on July 1, 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 7, 1994 is approved in part and rejected in part as provided in N.J.S.A. 13:1E-24. Also, serious planning deficiencies have been identified within Section C. of this certification.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the June 7, 1994 amendment to the Somerset 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 issue of concern relative to the June 7, 1994 amendment which is 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 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 7, 1994 Amendment

The following agencies did not object to the proposed amendment:

Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Green Acres Program, DEP
Division of Water Quality, DEP
New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management
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
Land Use Regulation Element, DEP
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 Waste Management, DEP

2. Issue of Concern Relative to the June 7, 1994 Amendment

Issue: RRIT Fund Uses and Disbursement Schedule/County Plan Deficiencies

The June 7, 1994 amendment specifies the proposed uses of and disbursement schedule for RRIT Fund monies. Specifically, one of the County's proposed uses for RRIT Fund monies is to design and construct a permanent household hazardous waste collection facility. As noted in Section C.2., the County was required to submit to the Department by January 1, 1994 an amendment which designated a site for a permanent household hazardous waste collection facility. To date, the DEP has not received the required amendment which was one of a series of milestones identified in the

Department's October 29, 1993 certification of the County's April 6, 1993 amendment for Somerset to achieve in-state self-sufficiency in solid waste disposal by January 1, 1998. Therefore, as noted in Section C.1., the Department rejects the entire RRIT Fund use and disbursement schedule proposed within the June 7, 1994 amendment due to serious planning deficiencies and directs the County to submit the amendment identifying the site for the permanent household hazardous waste collection facility by December 31, 1994. Also, Section C.2. notes that the Department will withhold all RRIT, Solid Waste Services Tax (SWST), and Recycling Fund moneys until milestone compliance is achieved.

C. Certification of the Somerset 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 the June 7, 1994 amendment to the approved County Plan and certify to the County Freeholders that the June 7, 1994 amendment is approved in part and rejected in part as further specified below.

1. June 7, 1994 Amendment

a. RRIT Fund Use and Disbursement Schedule

The County Plan inclusion of the proposed RRIT Fund uses and disbursement schedule is rejected. Specifically, the County proposal to utilize \$50,000.00 in RRIT Fund monies to hire a consultant in Fiscal Year 1994 to investigate, analyze, and implement actions to stabilize and reduce the cost of solid waste services to the County and \$ 347,153.73 of RRIT Fund monies over a two year period to design and construct a permanent household hazardous waste collection facility is rejected. The reason for the rejection is the County's failure to comply with milestones for achieving in-state self-sufficiency in solid waste disposal by January 1, 1998 as further described in Section C.2. below.

b. Deletion of Middlebush Composting Facility

The County Plan deletion of the closed Middlebush composting facility located at Block 36, Lot 6.03, in Franklin Township, Somerset County is approved.

2. Somerset County District Solid Waste Management Plan Deficiencies

On October 29, 1993, the Department certified the April 6, 1993 amendment which included a series of milestones for the County to achieve in-state self-sufficiency in solid waste disposal by

January 1, 1998. The first milestone stated that the County would commence negotiations with other New Jersey counties to obtain in-state disposal capacity and report regionalization activities quarterly to the Department starting on December 31, 1993. To date, no reports have been received by the Department. The next milestone required Somerset County to identify a site for a permanent household hazardous waste collection facility and adopt an amendment designating the site by January 1, 1994. To date, this required amendment has not been submitted to the Department. Therefore, Somerset County is directed to submit immediately the required quarterly regionalization reports and the amendment designating the household hazardous waste collection site by December 31, 1994. Further, the Department will withhold all RRIT, SWST, and Recycling Fund moneys until such time as milestone compliance is achieved.

Finally, in the Department's October 9, 1992 certification of the April 7, 1992 amendment deficiencies relative to the State requirements for source reduction, recycling, and regionalization planning were noted. Specifically, the County was directed to provide by April 9, 1993 in plan amendment form greater detail of its efforts to expand source reduction and recycling initiatives and to enter into regional agreements to cease reliance on out-of-state disposal. To date, this amendment has also not been received. Therefore, the County is directed to immediately submit this required amendment and such submission is also a condition of receiving future funding from the Department.

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 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 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 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 portion of this 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 this amendment to the County Plan contained herein shall take effect immediately.

7. Reservation of Authority

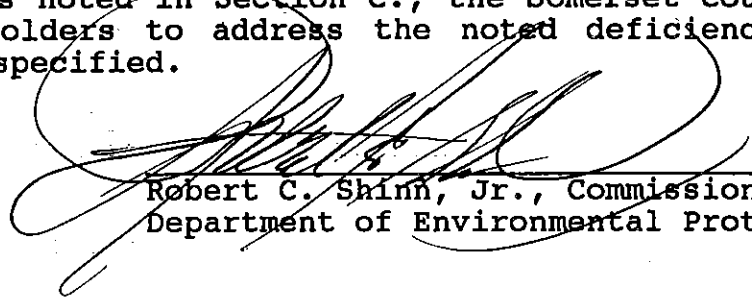
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made

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 Rejection 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 reject in part the amendment, as outlined in Section C. of this certification, to the Somerset County District Solid Waste Management Plan which was adopted by the Somerset County Board of Chosen Freeholders on June 7, 1994. I hereby also require, as noted in Section C., the Somerset County Board of Chosen Freeholders to address the noted deficiencies within the timeframes specified.

10/17/94
Date


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