



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
ATLANTIC COUNTY SOLID WASTE
MANAGEMENT DISTRICT**

**CERTIFICATION
OF THE DECEMBER 22, 1994
AMENDMENT TO THE ATLANTIC 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 June 24, 1982, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Atlantic 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 Atlantic County Board of Chosen Freeholders (County Freeholders) completed such a review and on December 22, 1994, adopted an amendment to its approved County Plan. As adopted, the amendment includes municipal container pickup facilities to be located in both Egg Harbor City and Port Republic City, and includes Magic Disposal, Inc. located in Egg Harbor Township as a recycling center for Class A materials.

The amendment was received by the Department on January 24, 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 December 22, 1994, is approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the December 22, 1994 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 and the applicants are notified of the issues of concern relative to the December 22, 1994 amendment which are included in Section B.2. below.

In conjunction with the review of the amendment, the Department circulated copies to sixteen federal and state 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 Solid and Hazardous Waste, DEP
Division of Enforcement, DEP
Division of Water Quality, DEP
Green Acres Program, DEP
Land Use Regulation Element, 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
Pinelands Commission
U.S. Environmental Protection Agency

1. Agency Participation in the Review of the December 22, 1994 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
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 agencies provided substantive comments as shown in Section B. of the certification document:

Division of Solid and Hazardous Waste, DEP
Division of Fish, Game and Wildlife, DEP
Division of Water Quality, DEP
Pinelands Commission

2. Issues of Concern Regarding the December 22, 1994 Amendment

Issue: Pinelands Comprehensive Management Plan

Regarding the Egg Harbor City municipal container pickup facility, this facility will be located in a Pinelands town and is considered by the Pinelands Commission to be a solid waste transfer station. Pursuant to the provisions of the Pinelands regulations found at N.J.A.C. 7:50-6.76, a solid waste transfer station is a permitted use in that management area provided that all waste accepted is either from Pinelands municipalities or from counties with at least 50% of their land area within the Pinelands. As this facility will be for the exclusive use of Egg Harbor City residents only, its operation should conform to the policies of the Pinelands Commission. Further, it must be noted that the Department does not consider the proposed operation to be a transfer station and will regulate the activity as a container pickup facility.

Concerning the Magic Disposal, Inc. recycling center, this facility is located in a Regional Growth Area and is also classified by the Pinelands Commission as a transfer station for the purposes of conformance with the Pinelands Comprehensive Management Plan. Such a facility is a permitted use in this management area provided that

all waste accepted is either from Pinelands municipalities or from counties with at least 50% of their land area within the Pinelands.

Finally, the Pinelands Commission noted that the provisions of N.J.A.C. 7:50-4.1 et seq. require that an application for development be submitted to the Pinelands Commission before construction or operation of the above noted facilities. The application is necessary to determine whether the proposed development is consistent with the standards of N.J.A.C. 7:50-6.1 et seq.

However, it must be noted by the DEP that it continues to be the Department's position that the Pinelands Comprehensive Management Plan should not prohibit recycling centers in the same way it prohibits solid waste disposal facilities. In this regard, it must also be noted that the Pinelands Commission has proposed amendments to its existing regulations. These proposed regulations, while continuing to consider a recycling center to be a waste management facility, will not impose upon recycling centers the restriction that all materials to be accepted be either from Pinelands municipalities or from counties with at least 50% of their land area within the Pinelands.

Issue: Wetlands and Endangered Species

Regarding the Port Republic municipal container pickup facility, proximate to the location of this planned facility are wetlands and surface waters of Morses Mill Stream. Also, this location may have the presence of endangered or threatened wildlife species. Specifically, if suitable habitat exists on the site, the Pine Barrens Tree Frog (endangered) and the Northern Pine Snake (threatened) can be expected to occur. Surveys for habitat suitability and possible species presence should be conducted prior to site development. Also, due to the proximity of wetlands, avoidance and adequate buffering to the Morses Mill Stream and wetlands should be considered prior to site development.

Issue: Permitting Requirements for Recycling Centers

If any operation of the proposed recycling center will discharge pollutants as defined in N.J.A.C. 7:14-1.9, said operation must secure a New Jersey Pollutant Discharge Elimination System Permit and/or a Treatment Works Approval for pollution discharge prior to operation.

C. Certification of the Atlantic 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 December 22, 1994 amendment to the approved County

Plan and certify to the County Freeholders that the December 22, 1994 amendment is approved as further specified below.

The County Plan inclusion of a municipal container pickup facility located in Egg Harbor City, Atlantic County on Block 424, Lots 16-22 and part of Lot 23 to provide residents with an area to deposit recyclable items and bulky materials which are not collected at curbside is approved. Access to this facility will be restricted to residents and other generators located within Egg Harbor City. Materials to be accepted include bulky waste, scrap metal, scrap wood, and wood branches. The facility will also accept on a temporary basis household waste from residents and other Egg Harbor City generators for transfer to the Atlantic County Utilities Authority Transfer Station in the event of an emergency which disrupts regular household collection.

The County Plan inclusion of a municipal container pickup facility located in Port Republic City on Block 38, Lots 1 and 2 to provide residents with an area to deposit recyclable items and bulky materials which are not collected at curbside is approved. Access to this facility will be restricted to residents and other generators located within Port Republic City. Materials to be accepted include glass, paper, cardboard, scrap metal, scrap wood, tires, bulky waste, and used motor oil.

The County Plan inclusion of Magic Disposal, Inc. located in Egg Harbor Township, Atlantic County at Block 97A, Lot 2 as a recycling center for Class A materials is approved. Specifically, the facility may accept no more than a maximum of 75 tons per day of source separated Class A materials including cardboard, office paper, glass, aluminum, newspaper, and metal.

Pursuant to N.J.A.C. 7:26A-4.1(a)1.iii., Class A recyclable materials may be commingled only with other Class A materials. Any residue generated as a result of the operation of a recycling center shall be disposed of pursuant to the County Plan and the Interdistrict and Intradistrict Solid Waste Flow Rules (N.J.A.C. 7:26 et seq.).

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 Waste 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.

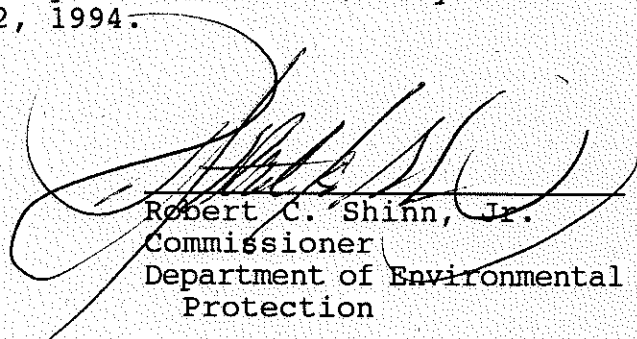
7. Reservation of Authority

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 Atlantic County District Solid Waste Management Plan which was adopted by the Atlantic County Board of Chosen Freeholders on December 22, 1994.

4/12/95
Date


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