



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
HUDSON COUNTY SOLID WASTE
MANAGEMENT DISTRICT

CERTIFICATION OF THE
JANUARY 12, 1995 AND MAY 25, 1995
AMENDMENTS TO THE HUDSON
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 27, 1982, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Hudson 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 that, among other things, counties amend their plans to include an outline of the proposed uses of moneys in the District Resource Recovery Investment (RRIT) Fund as well as establish a schedule for the disbursement of moneys in that fund.

The Hudson County Board of Chosen Freeholders (County Freeholders) completed such a review and on January 12, 1995 and May 25, 1995, adopted amendments to its approved County Plan. The January 12, 1995 amendment proposed to include Integrated Tire of N.J., Inc. located in Bayonne, Hudson County as a recycling center for Class B materials. The May 25, 1995 amendment proposed the specified uses of and a disbursement schedule for \$10,171,723.00 of the County's RRIT Fund for program years 1995 through 1998. The specified uses included: rate relief for solid waste operating expenses; developing a permanent household hazardous waste collection program; promoting various source reduction and recycling programs; and administration.

Although adopted on different dates both amendments were received by the Department on June 9, 1995, and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed these amendments and has determined that the amendments adopted by the County Freeholders on January 12, 1995 and May 25, 1995 are approved as provided in N.J.S.A. 13:1E-24.

B. Findings and Conclusions with Respect to the Hudson County District Solid Waste Management Plan Amendments

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the January 12, 1995 and May 25, 1995 amendments 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 these plan amendments are consistent with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders and the applicant are notified of the issues of concern relating to the January 12, 1995 and May 25, 1995 amendments which are identified in Sections B.2. and B.3. below.

In conjunction with the review of these amendments, the Department circulated copies to 15 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:

Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Division of Enforcement, DEP

Division of Solid and Hazardous Waste, DEP
Division of Water Quality, DEP
Office of Air Quality Management, DEP
Green Acres Program, DEP
Land Use Regulation Element, DEP
New Jersey Turnpike Authority
Department of Agriculture
Department of Community Affairs
Department of Health
Department of Transportation
U.S. Environmental Protection Agency
New Jersey Advisory Council on Solid Waste Management

1. Agency Participation in the Review of the January 12, 1995 and May 25, 1995 Amendments

The following agencies did not object to the proposed amendments:

Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Division of Enforcement, DEP
Green Acres Program, DEP
Department of Agriculture
Department of Community Affairs
Department of Transportation
New Jersey Advisory Council on Solid Waste Management
New Jersey Turnpike Authority

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 Water Quality, DEP
Division of Solid and Hazardous Waste, DEP

2. Issue of Concern Relative to the January 12, 1995 Amendment

Issue: Regulatory Requirements

If any operation of a 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 prior to operation.

Recycling centers are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution." This regulation prohibits the

release of odors and other air contaminants which interfere with the enjoyment of life and property. Also, recycling centers are subject to the regulations set forth at N.J.A.C. 7:26A-1 et seq., which includes but is not limited to operational standards and general rules for recycling centers which receive, store, process, or transfer Class A and Class B recyclable materials.

3. Issue of Concern Relative to the May 25, 1995 Amendment

Issue: RRIT Fund Use and Disbursement Schedule

The largest disbursement of RRIT Fund moneys (about \$8.5 million) identified within the May 25, 1995 amendment is to be allocated for solid waste operating expenses; specifically, for direct rate relief. However, the amendment does not indicate for which solid waste facility these funds are to be applied to provide rate relief. The Hudson County Improvement Authority (HCIA) was contacted to resolve this matter and, by letter of October 13, 1995, the Department was informed by the HCIA Executive Director that these RRIT Fund moneys would be allocated toward reducing bonded indebtedness incurred in developing the County's solid waste system. Although the HCIA had anticipated developing a resource recovery facility and ash landfill at the Koppers Koke site in Kearny, this project has been discontinued in favor of developing a solid waste and recycling complex at the same site. This change in approach was at least partly due to the State's revised policy in the early 1990's pertaining to development of waste to energy facilities. It must be noted that, pursuant to N.J.S.A. 13:1E-150 b.(1), RRIT Fund moneys may be allocated to reduce rates charged to all users by a resource recovery facility serving the county.

Regarding the County's household hazardous waste collection program, in the DEP's November 15, 1994 certification of a July 14, 1994 Hudson amendment, financing of household hazardous waste collection days with RRIT Fund moneys was only approved through December 31, 1995 to encourage the County to allocate such funds toward development of a permanent household hazardous collection facility or the entering into of a regional agreement for the shared use of such a facility. In response, the May 25, 1995 amendment proposes allocating RRIT Fund moneys toward development of a permanent household hazardous waste collection program. The County is investigating either the implementation of a mobile collection program, the development of permanent collection sites in Hudson County, or the entering into of a regional agreement with the HMDC for such a site. Of the \$900,000.00 total allocation, \$150,000.00 will be designated for planning, engineering, and capital costs in 1995. It is anticipated that a permanent household hazardous collection program will be implemented in 1996.

Finally, the County is proposing to allocate RRIT Fund moneys to conduct various source reduction and recycling activities. Specifically, a vermicomposting program (using worms in bins to

convert decomposing food waste into humus), a backyard composting program (including the purchase of 3,000 backyard compost bins), and the expansion of existing recycling drop-off centers to provide for the acceptance of used motor oil and antifreeze are proposed.

C. Certification of the Hudson County District Solid Waste Management Plan Amendments

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 of and disbursement schedule requirements for a district RRIT Fund, I have reviewed the January 12, 1995 and May 25, 1995 amendments to the approved County Plan and certify to the County Freeholders that these amendments are approved as further specified below.

1. January 12, 1995 Amendment

The County Plan inclusion of Integrated Tire of N.J., Inc., in association with International Recyclers Inc., located at East 2nd Street & Lexington Avenue on Block 359, Lots 4.01 and 4.02 in the City of Bayonne, Hudson County as a recycling center for Class B materials is approved. Specifically, the facility may receive up to 100 tons per day of tires including .5 ton per day of tire rims.

This certification shall not be construed as an expression of the Department's intent to issue a recycling center approval to any recycling center for Class B materials. A recycling center approval shall only be granted where the applicant has submitted an administratively complete application, as per N.J.A.C. 7:26A-3.5, where all substantive criteria for approval set forth in N.J.A.C. 7:26A-3.2, 3.3 and 3.4 are satisfied, where a fee has been paid in accordance with N.J.A.C. 7:26A-2, and where none of the criteria for denial of a recycling center approval are met, as per N.J.A.C. 7:26A-11 and 12.

Pursuant to N.J.A.C. 7:26A-4.1(a)1.iii, Class A recyclable material may be commingled only with other Class A recyclable materials. Class B recyclable materials may be commingled only with other Class B recyclable materials and only to the extent authorized in the general approval issued by the Department.

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.).

2. May 25, 1995 Amendment

The County Plan inclusion of the specified uses of and disbursement schedule for RRIT Fund moneys for program years 1995 through 1998

is approved as further described below. It must be noted that the ultimate conformance of these RRIT Fund uses and disbursement schedule with the requirements of N.J.S.A. 13:1E-150 shall be the responsibility of the Hudson County Improvement Authority.

PROGRAM	ALLOCATION	YEAR(S)
Rate Relief for Solid Waste	\$1,692,032.00	1995
Operating Expenses	6,783,991.00	1996-98
Household Hazardous Waste	150,000.00	1995
Collection Program	750,000.00	1996
Source Reduction/Recycling	390,000.00	1995
Programs	321,000.00	1996
Administration	32,000.00	1995
	<u>52,700.00</u>	1996
TOTAL DESIGNATED	\$10,171,723.00	

D. Other Provisions Affecting the Plan Amendments

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with these amendments to the County Plan and which was executed prior to the approval of these amendments 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 these amendments and of the County Plan if such renegotiation is not completed within ninety (90) days of the effective date of these amendments 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 amendments contained herein shall operate in compliance with these amendments 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 Amendments

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 amendments certified herein.

5. Definitions

For the purpose of these amendments 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 Amendments

The amendments to the County Plan contained herein shall take effect immediately.

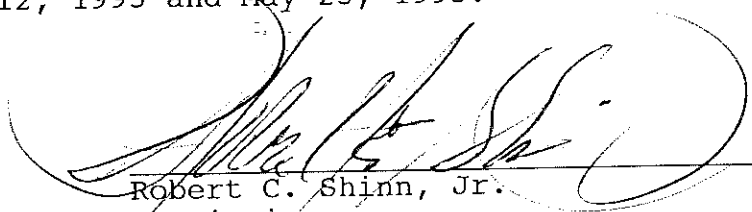
7. Reservation of Authority

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 Amendments 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 amendments, as outlined in Section C. of this certification, to the Hudson County District Solid Waste Management Plan which were adopted by the Hudson County Board of Chosen Freeholders on January 12, 1995 and May 25, 1995.

1/2/96
Date


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