



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 JULY 14, 1994 AMENDMENT
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 Tax (RRIT) Fund as well as establish a schedule for the disbursement of the moneys in that fund.

The Hudson County Board of Chosen Freeholders (County Freeholders) completed such a review and on July 14, 1994, adopted an amendment to its approved County Plan. The amendment proposed the specified uses of and a disbursement schedule for \$2,316,937.00 of the County's RRIT Fund for calendar years 1994 through 1996. The specified uses include: financing a household hazardous waste collection program; developing and implementing a dry cell battery collection program; offsetting solid waste operating expenses, including enforcement, at the HMDC Baler; and financing administration of the RRIT Fund by the Hudson County Improvement Authority. The required disbursement schedule for calendar years 1994 through 1996 was also included.

The amendment was received by the Department on August 17, 1994, and copies were distributed to various administrative review agencies for review and comment, as required by law. The DEP has reviewed this amendment, as well as the entire County Plan, and has determined that the amendment adopted by the County Freeholders on July 14, 1994 is approved in part and rejected in part as provided in N.J.S.A. 13:1E-24. Deficiencies in the County Plan have been identified within Section C. of this certification.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the July 14, 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 portions of this plan amendment are consistent with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders are notified of the issue of concern relative to the July 14, 1994 amendment which is included in Section B.2. below.

In conjunction with the review of the amendment, the Department circulated copies to fifteen 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 and without 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 Enforcement, 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
Department of Agriculture
Department of Community Affairs
New Jersey Advisory Council on Solid Waste Management
Department of Health
Department of Transportation
U.S. Environmental Protection Agency

1. Agency Participation in the Review of the July 14, 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
Division of Enforcement, DEP
Green Acres Program, DEP
Division of Water Quality, DEP
New Jersey Turnpike Authority
Department of Agriculture
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
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 Waste Management, DEP

2. Issues of Concern Regarding the July 14, 1994 Amendment

Issue: RRIT Fund Use and Disbursement Schedule

The Department is encouraging counties to develop permanent household hazardous waste collection facilities rather than the continued reliance on household hazardous waste collection days. Burlington County is the first New Jersey county to construct and operate a permanent household hazardous waste collection facility. This facility cost about \$400,000.00 to develop and has an anticipated cost of \$300,000.00 to operate on an annual basis. Rather than the County continuing to allocate RRIT Funds to finance household hazardous waste collection days, these moneys should be

allocated toward the development of a permanent household hazardous waste collection facility or the entering into of a regional agreement for the shared use of such a facility. Therefore, Section C. of the certification approves the disbursement of RRIT Fund moneys to finance a household hazardous waste collection program only through calendar year 1995. Thereafter, such use is rejected to encourage the County to use RRIT Fund moneys to finance the development of a permanent household hazardous waste collection facility or to enter into a regional agreement for the shared use of such a facility.

C. Certification of the Hudson 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 July 14, 1994 amendment to the approved County Plan and certify to the County Freeholders that the July 14, 1994 amendment is approved in part and rejected in part as further specified below.

1. July 14, 1994 Amendment

The County Plan inclusion of the RRIT Fund uses and disbursement schedule for calendar years 1994 through 1996 is approved in part and rejected in part. Specifically, as noted in Section B., all uses and the associated disbursement schedule are approved except that financing of the household hazardous waste collection program is limited to those expenses incurred by the County before December 31, 1995. The use and disbursement of \$152,247.00 for the 1996 household hazardous waste collection program is rejected to encourage the County to use RRIT Fund moneys to develop a permanent household hazardous waste collection facility or to enter into a regional agreement for the shared use of such a facility. The balance of \$2,164,690.00 of RRIT Fund moneys shall be disbursed to the County for the specified uses as follows:

PROGRAM	ALLOCATION	YEAR(S)
Household Hazardous Waste Collection	\$ 894,183.00	1995
Dry Cell Battery Collection	335,530.00	1994-95
Solid Waste Operating Expenses/ Enforcement at the HMDC Baler	901,534.00	1994
Administrative Fees	<u>33,443.00</u>	1994-95
TOTAL DESIGNATED	\$ 2,164,690.00	

2. Hudson County District Solid Waste Management Plan Deficiencies

In the Department's July 16, 1993 certification of the County's December 10, 1992 amendment, the County was directed, within 180 days in a subsequent plan amendment submission, to address certain tasks relative to the State's requirements for source reduction, recycling, and regionalization. To date, the required amendment has not been submitted. The July 16, 1993 certification also required the County to address the longstanding planning deficiency of developing a strategy for achieving disposal self-sufficiency. This plan amendment, which was to have been submitted within 180 days, 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 portions of this amendment to the County Plan and which was executed prior to the approval of the approved portions 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 portions 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 portions of this amendment contained herein shall operate in compliance with the approved portions 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 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 portions 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 portions of this amendment to the County Plan contained herein shall take effect immediately.

7. Reservation of Authority

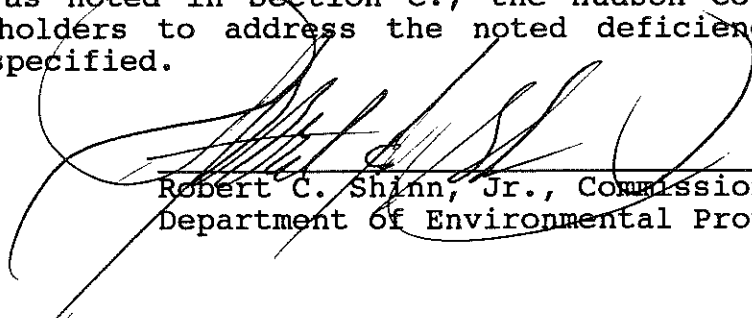
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the 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 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 Hudson County District Solid Waste Management Plan which was adopted by the

Hudson County Board of Chosen Freeholders on July 14, 1994. I hereby also require, as noted in Section C., the Hudson County Board of Chosen Freeholders to address the noted deficiencies within the timeframe specified.

11/15/94
Date


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