



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL
PROTECTION

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
MIDDLESEX COUNTY SOLID WASTE
MANAGEMENT DISTRICT**

**CERTIFICATION
OF THE APRIL 7, 1994
AMENDMENT TO THE MIDDLESEX 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 29, 1980, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Middlesex 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 Middlesex County Board of Chosen Freeholders (County Freeholders) completed such a review and on April 7, 1994, adopted an amendment to its approved County Plan.

The amendment corrects the omission of Block 41C, Lot 3R from the site of the Raritan River Terminal, Inc. recycling center for Class A and B materials located in the Township of Woodbridge and includes PIM Recycling as a recycling center to handle Class A materials located in the City of Perth Amboy. Regarding the Raritan River Terminal, Inc. recycling center, this facility was the subject of a previous amendment adopted by the County on February 8, 1993. The additional lot and block, which are to be used for barging operations, were omitted from that amendment.

The amendment was received by the Department on May 12, 1994 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 April 7, 1993 is approved in part and modified in part as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the April 7, 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, as modified, is consistent with the Statewide Solid Waste Management Plan. In this regard, the County Freeholders and the applicant are notified of the issues of concern relative to the April 7, 1994 amendment which are 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
- Wastewater Facilities 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
U.S. Environmental Protection Agency

1. Agency Participation in the Review of the April 7, 1994 Amendment

The following agencies did not object to the proposed plan amendment:

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

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

New Jersey Advisory Council on Solid Waste Management
Department of Health
U.S. Environmental Protection Agency

The following agencies provided substantive comments as shown in Section B. of the certification document:

Office of Air Quality Management, DEP
Division of Solid Waste Management, DEP
Land Use Regulation Element, DEP
Wastewater Facilities Regulation Element, DEP

2. Issues of Concern Relative to the April 7, 1994 Amendment

Issue: Pending Violations

As previously noted, on February 8, 1993 the County initially adopted an amendment to include the Raritan River Terminal, Inc. recycling center for Class A and B materials within the County Plan. Within the Department's July 23, 1993 certification of that amendment, the DEP noted that the recycling center may be located in the floodplain of the Raritan River and associated wetlands. Therefore, the applicant was directed to contact the Department's Land Use Regulation Element to apply for a Freshwater Wetlands Letter of Interpretation.

Pursuant to its review of the April 7, 1994 amendment, the Land Use Regulation Element noted that parcels of the Raritan River Terminal, Inc. site are coastal wetlands and/or streams which have been altered not in conformance with New Jersey's wetlands regulations. The agency has issued numerous violations regarding these infractions. Specifically, these violations include but are not limited to: (1) Block 52, Lot 1 comprises 6.78 acres of coastal

wetlands most of which has been backfilled without the appropriate permitting or prior approvals from the DEP; and (2) approximately 600 feet of Kinsey Creek passing through Block 41-C, between Lots 3B and 4B, has been piped and paved over without the proper prior approvals from the Department.

Also, the DEP's Division of Solid Waste Management has conducted site inspections and issued violations for noncompliance with N.J.A.C. 7:26A-3.1(a) for operation of an illegal recycling center for Class B materials.

Therefore, as noted within Section C. of the certification, the inclusion within the County Plan of the Raritan River Terminal, Inc. recycling center in Woodbridge Township is approved with modification contingent upon the resolution of all outstanding Department enforcement actions relative to wetlands and solid waste violations.

Issue: Regulatory Requirements

If any operation of the proposed recycling centers will discharge pollutants as defined in N.J.A.C. 7:14-1.9, said operation must secure a New Jersey Pollutant Elimination System Permit and/or a Treatments Works Approval for pollutant discharges 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 odors and emissions of other air contaminants which interfere with the enjoyment of life or property. Recycling centers are considered solid waste facilities and are subject to N.J.A.C. 7:27-8.2(a)16 which requires air pollution control permits for any equipment which vents a solid waste facility directly or indirectly into the outdoor atmosphere. Such vents may require devices to control odors and other air contaminants.

Issue: Additional Block/Lot Correction

Within the Department's July 23, 1993 certification of the County's February 8, 1993 amendment, the DEP erroneously included Block 51, Lots 2 and 2B as parcels comprising the site of the Raritan River Terminal, Inc. recycling center in Woodbridge Township. With the addition of Block 41C, Lot 3R, the corrected and complete site location for this proposed recycling center is Block 41C, Lots 3B, 4B, and 3R, Block 51, Lot 1B, and Block 52, Lot 1. Therefore, as noted within Section C., this certification hereby corrects the lots and blocks comprising the Woodbridge Township site of the Raritan River Terminal, Inc. recycling center.

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

The County Plan inclusion of Block 41C, Lot 3R of the Raritan River Terminal, Inc. recycling center located at 100 Bayview Avenue in the Township of Woodbridge is approved with modification. This additional block and lot were omitted from the County's February 8, 1993 amendment which initially included the subject facility within the County Plan. The corrected and complete site of the Raritan River Terminal, Inc. recycling center located within the Township of Woodbridge comprises Block 41C, Lots 3B, 4B, and 3R, Block 51, Lot 1B, and Block 52, Lot 1. The proposed facility will accept Class A and B materials at the following rates: 1,600 tons per day of concrete and asphalt, 300 tons per day of clean wood, 50 tons per day of glass, and 1,000 tires per day. It must be noted that most of Block 41C, Lot 3R is covered by water and will be used to load and unload recyclables on and off barges. As noted within Section B., the County Plan inclusion of this facility is contingent upon the resolution of all outstanding Department enforcement actions relative to wetlands and solid waste violations.

The County Plan inclusion of PIM Recycling as a recycling center to handle Class A materials located at 1010 State Street, Block 427, Lot 5 in the City of Perth Amboy is approved. The facility will accept source separated, nonputrescible metal, glass, paper, plastic containers, and corrugated and other cardboard. The site will have an initial combined handling, processing, and storage capacity of 72 tons per day with plans to expand up to 275 tons per day.

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. Additionally, the construction or operation of a recycling center which receives, stores, processes or transfers Class B recyclable materials, as defined at N.J.A.C. 7:26A-1.3, shall be preceded by the acquisition of the necessary approval

pursuant to N.J.A.C. 7:26A-3 et seq., and shall be in conformance with DEP regulations and guidelines, including N.J.A.C. 7:26A-4.

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 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.

For a recycling center which will be handling only Class A recyclable materials, as defined at N.J.A.C. 7:26A-1.3, no approval from the Department is necessary prior to operation, provided the recycling center is not operating in conjunction with a site that requires a solid waste facility permit from the DEP. However the recycling center must comply with the regulations at N.J.A.C. 7:26A-4.

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 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 DEP 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, as modified, 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, as modified, to the County Plan contained herein shall take effect immediately.

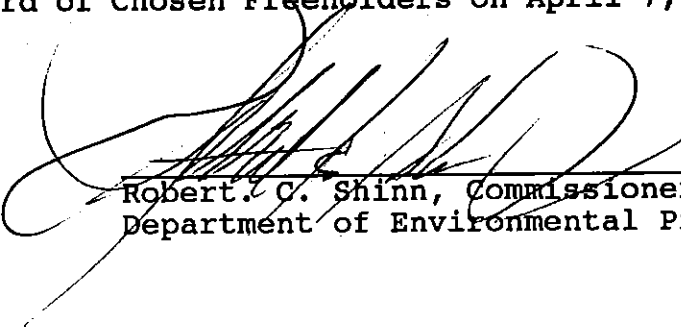
7. Reservation of Authority

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 Modification in Part 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 in part and modify in part the amendment, as outlined in Section C. of this certification, to the Middlesex County District Solid Waste Management Plan which was adopted by the Middlesex County Board of Chosen Freeholders on April 7, 1994.

8/18/94
Date


Robert C. Shinn, Commissioner
Department of Environmental Protection