



## State of New Jersey

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Department of Environmental Protection

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

CERTIFICATION  
OF THE JANUARY 15, 1998  
AMENDMENT TO THE CUMBERLAND 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 March 4, 1981, the Department of Environmental Protection (Department or DEP) approved, with modifications, the Cumberland 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.

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 Cumberland County Board of Chosen Freeholders (County Freeholders) completed such a review and on January 15, 1998, adopted an amendment to its approved County Plan.

The amendment represents the County's response to the May 1, 1997 decision of the United States Court of Appeals for the Third Circuit which declared unconstitutional New Jersey's historic system of solid waste flow control. [See Atlantic Coast Demolition and Recycling, Inc. v. Board of Chosen Freeholders of Atlantic County et al. 112 F.3d 652 (3d Cir. 1997, cert. den., November 10, 1997.)] Specifically, each solid waste management district must reevaluate its solid waste disposal strategy in light of this recent court decision and, if necessary, initiate appropriate amendments thereto.

In general, the Department refers the County to the solid waste regulations at N.J.A.C. 7:26-1 et seq. to the extent they relate to specific procedural and substantive issues addressed in this and subsequent plan amendments. In addition, this certification is in no way intended by the DEP to represent a legal determination regarding the effect of the Atlantic Coast decision on any specific contract between public and/or private parties.

The January 15, 1998 amendment proposes a market participant strategy which provides for voluntary delivery of solid waste to the Cumberland County Solid Waste Complex landfill.

The amendment was received by the Department on February 11, 1998, and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed this amendment on an expedited basis and has determined that the amendment adopted by the County Freeholders on January 15, 1998 is approved as provided in N.J.S.A. 13:1E-24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I have studied and reviewed the January 15, 1998 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 the 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 January 15, 1998 amendment which is 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:

Division of Parks and Forestry, DEP  
Division of Fish, Game and Wildlife, DEP  
Division of Compliance and 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  
New Jersey Advisory Council on Solid Waste Management  
Department of Agriculture  
Department of Health  
Department of Transportation  
Department of Community Affairs  
Department of Treasury  
U.S. Environmental Protection Agency

1. Agency Participation in the Review of the January 15, 1998 Amendment

The following agencies did not object to the proposed amendment

Division of Compliance and Enforcement, DEP  
New Jersey Advisory Council on Solid Waste Management  
Department of Agriculture  
Department of Transportation

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

Division of Parks and Forestry, DEP  
Division of Fish, Game and Wildlife, 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 Health  
Department of Community Affairs  
Department of Treasury  
U.S. Environmental Protection Agency

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

Division of Solid and Hazardous Waste, DEP

2. Issue of Concern Regarding the January 15, 1998 Amendment

**Issue: Market Participant Strategy**

Continued access to the Cumberland County Improvement Authority's (CCIA or Improvement Authority) solid waste management system will be made available on a voluntary participation basis through the execution of contracts with the County's fourteen municipalities; private collectors/haulers; and governmental, private or institutional generators of waste.

Upon execution of a contract with a municipality, the CCIA shall offer:

- \*disposal capacity;
- \*processing and marketing of recyclables;
- \*access to a minimum of one annual Household Hazardous Waste Collection event;
- \*free disposal of roadside litter, and limited amounts of bulky waste and demolition debris;
- \*program support; and
- \*pro-rata rebate of revenues from recycling program (as long as no statewide recycling tax is in effect.)

The amendment proposes that municipalities that do not elect to utilize the Cumberland County Solid Waste Complex landfill shall not receive any above noted services of the system. Further, if a municipality does not execute a disposal contract with the CCIA before a date to be specified by the CCIA, and later seeks to utilize the system, the Improvement Authority may assess a fee in excess of the fee charged to municipalities which did execute contracts by the specified date. The CCIA will execute contracts with private collector/haulers and waste generators to provide disposal but no other services. Within Section C. of this certification, the Department approves the County's market participant strategy.

C. Certification of the Cumberland 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 January 15, 1998 amendment to the approved County Plan and certify to the County Freeholders that the January 15, 1998 amendment is approved as further specified below.

The County Plan inclusion of a market participant strategy which provides for voluntary delivery of solid waste to the Cumberland County Solid Waste Complex landfill, as described above in Section B.2., is approved.

**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 District 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 waste, sewage sludge, septage, and hazardous waste. All nonhazardous materials separated at the point of generation for sale or reuse are subject to regulation in accordance with 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 approved amendment to the County Plan contained herein shall take effect immediately.

7. Reservation of Authority

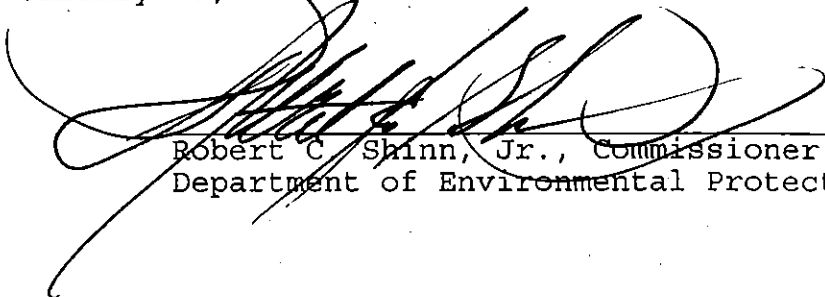
Nothing contained herein shall be construed as a limitation on any other action taken by the Department pursuant to its authority under the law. The County Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan, with appendices, which includes the Department's planning guidelines, rules, regulations, orders of the Department, 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 Cumberland County District Solid Waste Management Plan which was adopted by the Cumberland County Board of Chosen Freeholders on January 15, 1998.

Date

4/24/98

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