

Let's protect our earth



STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
RICHARD T. DEWLING, Ph.D., P.E., COMMISSIONER  
CN 402  
TRENTON, N.J. 08625  
609 - 292 - 2885

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

CERTIFICATION  
OF THE DECEMBER 16, 1987  
AMENDMENT TO THE BERGEN 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 October 31, 1980 the Department approved, with modifications, the Bergen County District Solid Waste Management 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 the 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 the 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 plan at any time and, if found inadequate, a new plan must be adopted. The Bergen County Board of Chosen Freeholders completed such a review and on December 16, 1987, adopted an amendment to its approved district solid waste management plan.

The amendment proposes to:

- 1) Incorporate into the approved plan an interim solid waste disposal strategy consisting of extended use of the Kingsland Park Landfill beyond December 31, 1987.
- 2) Incorporate into the approved plan a solid waste disposal strategy consisting of out-of-district disposal.
- 3) Designate the Kingsland Park Landfill for use as a transfer station facility.
- 4) Designate the use of existing, permitted transfer stations in Bergen County as an alternate or in combination with the Kingsland Park facility for out-of-district disposal.
- 5) Incorporate into the approved plan a strategy for entering contractual arrangements in the event the Bergen County Utilities Authority (BCUA) did not receive acceptable bids pursuant to a public bidding process, enabling them to directly engage in transfer, transport, and disposal activities.
- 6) Incorporate into the approved plan a contingency strategy consisting of designation of two possible landfill sites and one alternate transfer station site to handle Bergen County solid waste.

A draft of the amendment was received by the Department of Environmental Protection on December 8, 1987 and due to the potential for a solid waste crisis in Bergen County, copies were distributed to various state level agencies for review and comment, as required by law. The complete amendment submission was received by the Department on December 28, 1987. The contents of the draft and final amendments were identical. The Department has reviewed this amendment and has determined that the amendment adopted by the Bergen County Board of Chosen Freeholders on December 16, 1987 is approved as provided in N.J.S.A. 13:1E - 24.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I, Richard T. Dewling, Commissioner of the Department of Environmental Protection have studied and reviewed the December 16, 1987, amendment to the Bergen County District Solid Waste Management 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 addition, the Division of Solid Waste Management circulated the plan amendment to sixteen review agencies and solicited their review and recommendations. Pursuant to N.J.S.A. 13:1E-24a(2) and (3), these agencies included various agencies, bureaus, and divisions within the Department of Environmental Protection as well as the Board of Public Utilities. Also among these agencies were the Department of Community Affairs, the Department of the Public Advocate, the Department of Health, the Office of

Recycling, the Department of Agriculture, the Department of Transportation, and the New Jersey Turnpike Authority. Of these agencies, the following did not object to the proposed plan amendment: the State Departments of Agriculture, Community Affairs and Transportation; and the New Jersey Advisory Council on Solid Waste Management. The following agencies failed to respond to our requests for comments: the N.J.D.E.P. Divisions of Environmental Quality, Fish, Game and Wildlife, Parks and Forestry, and Coastal Resources; the State Departments of Health, and the Public Advocate; the Board of Public Utilities, the Green Acres Program, the New Jersey Turnpike Authority and the U.S. Environmental Protection Agency. The Division of Solid Waste Management, the Office of Recycling, the Division of Water Resources and the Hackensack Meadowlands Development Commission submitted substantive comments which are further addressed below.

The Planning Bureau of the Division of Solid Waste Management has the following comments. Section I. of the proposed amendment is a historical review of solid waste management in Bergen County since the enactment of the New Jersey Solid Waste Management Act. The review culminates by stating that the current Interdistrict Waste Flow Agreement between Bergen County, the Hackensack Meadowlands Development Commission (HMDC), and the New Jersey Department of Environmental Protection (Department), provides for disposal at the Kingsland Park Sanitary Landfill through December 31, 1987, at which time the district's solid waste flow is to be redirected to alternate disposal facilities. The proposed amendment further states that on or before the expiration of the existing Interdistrict Waste Flow Agreement, it is contemplated that a successor agreement will be executed between the parties for ongoing solid waste transfer or disposal activities within the Hackensack Meadowlands District.

On December 24, 1987, a Memorandum of Understanding (MOU) was entered into between Bergen County and the HMDC. The December 24, 1987 MOU was formally entered into after the adoption of this proposed plan amendment and has not yet been submitted to the Department for review and approval for district plan inclusion pursuant to N.J.S.A. 13:1E-1 et seq. However, provisions of the December 16, 1987 proposed plan amendment are directly affected by the conditions contained in the MOU, which is the basis of the comments offered by the Planning Bureau.

The MOU states, among other things, that:

- ° "The Bergen County Utilities Authority shall be allowed to continue the disposition of solid waste at the Kingsland Landfill Extension and Lagoon no later than February 29, 1988 provided that the New Jersey Department of Environmental Protection (NJDEP) approves such utilization."
- ° After February 29, 1988, new landfill space for Bergen County may be utilized within the Hackensack Meadowlands District at Block Numbers 190, 191 and 192 in North Arlington, New Jersey "for bypass and residual landfilling purposes."
- ° Aside from the provision immediately above, which references additional landfilling within the Meadowlands District after the

proposed Bergen County Resource Recovery facility enters operation, "the HMDC will not be bound to find new landfill space for the BCUA."

- ° Should the BCUA seek to operate transfer and staging facility operations within the Hackensack Meadowlands District after the closure of the Kingsland Landfill Extension and Lagoon, and before the utilization of the North Arlington site, the BCUA and the HMDC shall enter into an Interdistrict Waste Flow Agreement mutually agreeable to both parties, allowing said operation.

Provisions of the December 24, 1987 MOU would, therefore, put a February 29, 1988 limit on the extended use of the Kingsland Park Landfill proposed in Section II A. of the amendment. Provisions of the MOU would also negate the designation of two landfill sites contained in Section III 1 and 2 of the plan amendment, with the exception of consideration for contingency planning purposes and subject to formal agreement of such additional use by the BCUA and HMDC.

The Bureau of Resource Recovery of the Division of Solid Waste Management commented that:

1. Pursuant to N.J.A.C. 7:26-2.7, any expansion of an existing solid waste facility requires a complete review and approval for the solid waste facility permit by the Bureau of Resource Recovery. Such a procedure also includes a public hearing process in accordance with N.J.A.C. 7:26-2.4(g)4iii.
2. Prior to any transfer of waste to another district, an interdistrict agreement will be required pursuant to N.J.S.A. 13:1E-21b(5).
3. Any redirection of solid waste to the parcels of land designated as Block 190, Lot 1A; Block 191, Lot 1A; and Block 192, Lot 1, located in the Borough of North Arlington requires prior NJDEP and Board of Public Utilities (BPU) approval.
4. Prior to the use of property designated as Block 192, Lot 1, located in the Borough of North Arlington, as a transfer station, the applicant has to meet the Department's solid waste application requirements to obtain an approved solid waste facility permit.

In response to these concerns, Section C. has been structured to specify additional technical submissions which would address these requirements.

The Office of Recycling commented that Bergen County's interim solid waste disposal strategy is inconsistent with the New Jersey Statewide Mandatory Source Separation and Recycling Act, P.L. 1987, c.102. A district recycling plan indicating, among other things, the recyclables to be collected from the municipal solid waste stream, i.e. residential, commercial, and institutional sectors should have been adopted by the county as a solid waste plan amendment on or before October 20, 1987. Since the absence of this required Amendment directly affects projected municipal solid waste tonnages, the interim disposal strategy discussed in this amendment is inadequate.

The Division of Solid Waste Management responds by indicating that Bergen County has submitted a comprehensive draft recycling plan to the Office of Recycling for review. Further, upon preliminary review by the Office of Recycling, the county has been notified that this document requires only minor changes prior to adoption by the Bergen County Freeholder Board in plan amendment form. Finally, since this amendment relates to continued disposal service in the county, the concerns expressed by the Office of Recycling need not be addressed further here. However, the Bergen County Recycling Plan should be finalized and adopted by the county as soon as possible.

The Division of Water Resources (DWR) commented that:

1. The amendment designates a site in North Arlington for a residual landfill. The site contains wetlands according to the U.S. Fish and Wildlife Service, National Wetlands Inventory Maps. The applicant who will construct this landfill should be notified to contact the New York District of the Army Corps of Engineers (Corps) to verify the wetlands jurisdiction. Should the project impact on wetlands, a Water Quality Certificate will be required from the Division of Water Resources. The applicant should also be advised that the Corps permitting process may be time consuming, with potential involvement of other federal agencies.
2. The designated residual landfill located in North Arlington and any other landfill must apply for a New Jersey Pollutant Discharge Elimination System (NJPDES) Discharge to Ground Water (DGW) Permit. This facility must submit an application prior to operating the landfill. After receiving the application, the DWR will issue a NJPDES/DGW Permit in a timely manner.
3. The Cilano Transfer Station, as stated in previous memos, must apply for a NJPDES/DGW Permit, but the DWR will not make a determination on issuing a final permit until a latter date. However, this should not be cause to delay operation of the transfer station. The facility will have satisfied its regulatory requirement to apply by submitting a completed application to the Bureau of Permits Administration, Division of Water Resources.

The Division of Solid Waste Management responds by stating that Bergen County is, by way of this certification, informed of the possible requirements indicated by the Division of Water Resources. The first two items noted pertain to the development of the proposed residual landfill, which is not likely to occur within the next few years. With respect to item 3, the county has not indicated its intention to utilize the Cilano Transfer Station. However, should such use be planned, the county is herein advised of the concerns of the DWR.

The Hackensack Meadowlands Development Commission (HMDC) commented in support of approving the contents of the proposed amendment and specifically noted that "time is of the essence in the approval of this proposed plan amendment if the proposed transfer station is to be completed by March 1, 1988."

The Division of Solid Waste Management responds by agreeing with the HMDC that time is critical to avoid a crisis situation. Therefore, the Department processed the proposed amendment in an expedited manner and has approved the amendment as further outlined in Section C below.

C. Certification of Bergen County District Solid Waste Management Plan Amendment

I, Richard T. Dewling, Commissioner of the Department of Environmental Protection, in accordance with N.J.S.A. 13:1E-1 et seq. and N.J.S.A. 13:1E-21, which established specific requirements regarding the contents of the district solid waste management plans, have reviewed the December 16, 1987, amendment to the approved Bergen County District Solid Waste Management Plan and certify to the Bergen County Board of Chosen Freeholders that the December 16, 1987 amendment is approved as further specified below.

The December 16, 1987 proposed amendment to the Bergen County District Solid Waste Management Plan was presented in the form of subcomponents which cumulatively represent the county's interim solid waste disposal strategy. Each of the subcomponents will be addressed in order of presentation, with the exception of Section I, which was a historical overview serving to introduce the substantive portions of the amendment.

1. Sections II A. and B. provide for an immediate interim solid waste strategy of utilizing available permitted capacity at the Kingsland Park Landfill and that this facility will continue to operate beyond December 31, 1987 through completion of final grading plan contours in accordance with Department approval.

Since the proposed amendment was adopted, permitted capacity at the Kingsland Park Landfill has been exhausted or has been determined to be otherwise unusable. Continued landfilling at this facility is approved from a planning perspective pending the submission, review and approval of necessary application materials and technical documents which constitute a landfill expansion request. Said submission must document sufficient capacity to enable acceptance of current waste loadings until February 29, 1988. This is the date landfilling at the Kingsland Park Landfill is to cease according to the provisions of the December 24, 1987 Memorandum Of Understanding which is noted in Section B. of this certification.

2. Section II C. of the December 16, 1987 proposed amendment stated that during or after completion of solid waste disposal activities at the Kingsland Park Sanitary Landfill, out-of-district disposal may be utilized to provide interim solid waste disposal capacity for Bergen County's solid waste. The proposed amendment further stated that bid specifications have been issued and reissued to solicit competitive bids for out-of-district disposal which embody the Department's Emergency Master Performance Permit Process should this process be necessary, and which allows bidders to utilize any suitable site subject to permitting requirements or to use the Bergen County Utilities Authority's designated site for transfer operations.

This strategy for out-of-district disposal is approved on an interim basis. Out-of-district disposal will not be permitted after the Bergen County resource recovery facility becomes operational or after December 31, 1992, whichever occurs first. Any future out-of-district solid waste disposal strategy for the period after December 31, 1992 would only be considered for certification as a component of Bergen County's solid waste contingency plan. Additionally, should the out-of-district disposal strategy involve in-state transfer stations located outside of the Bergen County District and/or other in state disposal facilities, Bergen County must obtain interdistrict agreements with affected New Jersey counties prior to the commencement of transport or disposal operations in those counties.

3. Section II D. of the proposed amendment proposes to designate the Kingsland Park Landfill for siting transfer station facilities and include the site in the approved Bergen County District Plan. This designation of the Kingsland Park Sanitary Landfill for the siting of a solid waste transfer station is approved. Based upon verbal communication with representatives of Bergen County and from the submission by the county of an application for a Master Performance Permit to develop a transfer station at the Kingsland Park site, it is clear that the majority of active transfer operations will occur within Block 236, lots 1A and 1B in the Township of Lyndhurst. However, the proposed amendment incorporates the remaining Block and Lot portions of the existing landfill for access and/or contingency purposes. Specifically, the designation of Block 236, Lots 1A, and 1B in the Township of Lyndhurst, and Block 192, Lot 4, Block 194, Lot 1, Block 195, Lot 1, Block 197, Lot 1, Block 198, Lots 1, 2, 3, in the Borough of North Arlington for transfer station operations, is approved.

The proposed plan amendment also states that currently permitted transfer stations contained in the approved Bergen County District Solid Waste Management Plan may be utilized as alternates or in combination with the Kingsland Park facility as transfer points for out-of-district disposal. The plan amendment further states that the transfer stations are to be utilized as presently permitted or modified or expanded to fulfill out-of-district transfer requirements. This proposal for the utilization of existing transfer stations operating within Bergen County is approved. However, each transfer station must be included within the approved Bergen County District Solid Waste Management Plan and the transfer stations are limited to the operational capacities approved within each relevant facility permit. In no case may a transfer station accept solid waste in excess of its permitted capacity. Further, under no circumstances may a transfer station expand operations prior to submitting technical documents and obtaining all necessary approvals and permits.

The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals under N.J.S.A. 13:1E-1 et seq. and all other applicable laws. Issuance of operating permits pursuant to the Solid Waste Management Act is limited to those applicants found by the Department and the

Attorney General to be deserving of licensing under the provisions of N.J.S.A. 13:1E-126 et seq.

4. Section II E. of the December 16, 1987 proposed amendment stated that in the event no acceptable bids are received (for the transfer station and transport project), the Bergen County Utilities Authority may, by contracting for such services, acting on its own behalf, or in a joint venture with other parties, directly engage in transfer, transport and disposal activities both within the district and outside its geographical boundaries. This contingency strategy is approved. However, if Bergen County proposes to utilize transfer and/or disposal facilities outside its geographical boundaries, yet within the State of New Jersey, an interdistrict agreement(s) between the relevant districts will be required pursuant to the provisions of N.J.S.A. 13:1E-2(b)(5).
5. Section III of the proposed amendment provided an alternate Bergen County solid waste disposal strategy or contingency plan. The alternate strategy states that should out-of-district disposal fail to materialize, "the District proposes to redirect solid waste following the exhaustion of the Kingland Park Landfill capacity in the following manner:
  - a. Based upon conditions existing at that time and pursuant to emergency powers conferred in whatever form, the District will seek an immediate redirection of solid waste under an emergency mobilization to a site designated as Block 190, Lot 1A and Block 191, Lot 1A in the Borough of North Arlington. This site may serve as a primary landfill for any period remaining before the commencement of resource recovery under this Plan.
  - b. In addition, based upon conditions existing at that time and pursuant to emergency powers conferred in whatever form, the District may seek an immediate redirection of solid waste to Block 192, Lot 1, in the Borough of North Arlington. This action may be necessitated in the event of capacity shortfall at the above-mentioned site or other compelling circumstances.
  - c. In addition, should the Kingsland Park Sanitary Landfill become unavailable for use as a transfer station, in any out-of-district waste flow plan for any reason whatsoever, Block 192, Lot 1, in the Borough of North Arlington shall be and is hereby designated as a potential transfer site in lieu thereof."

The above alternate solid waste disposal strategy is approved as a component of Bergen County's solid waste contingency plan. However, utilization of any of the above sites for the purposes noted must be preceded by the entering of an interdistrict agreement between the county and the Hackensack Meadowlands Development Commission. Said agreement must also be formally incorporated within the appropriate district solid waste management plan or plans as determined by the Department at the time the agreement is entered.



### III. 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 within amendment to the Bergen County District Solid Waste Management 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 of Environmental Protection and operating pursuant to a contract as herein described, shall be deemed to be in violation of this amendment and of the Bergen County District Solid Waste Management 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 of Environmental Protection, and for good cause shown, obtain an extension of time to complete such renegotiation.

#### 2. Compliance

All solid waste facility operators and collector/haulers registered with the Department of Environmental Protection and operating within Bergen County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Bergen County District Solid Waste Management Plan. Any facility operator or collector/hauler 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 of Environmental Protection 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 Plans

The provisions of the Bergen County District Solid Waste Management 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. Also, all non-hazardous 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 (N.J.A.C. 7:26-6).

4. Certification to Proceed with the Implementation of Plan Amendment

This document shall serve as the certification of the Commissioner of the Department of Environmental Protection to the Bergen County Board of Chosen Freeholders and pursuant to N.J.S.A. 13:1E-24c. and f., the county shall proceed with the implementation of the approved amendment contained 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 N.J.A.C. 7:26-1.4 and -2.13.

6. Effective Date of Amendment

The amendment to the Bergen County District Solid Waste Management 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 of Environmental Protection pursuant to its authority under the law. The Bergen County District Solid Waste Management Plan, including any amendment made thereto, shall conform with the Statewide Solid Waste Management Plan. The Department has published a Statewide Solid Waste Management Plan with appendices which includes the Department's planning guidelines and rules, regulations, and orders of the Department, including the 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 Bergen County District Solid Waste Management Plan which was adopted by the Bergen County Board of Chosen Freeholders on December 16, 1987.

DATE

12/30/87

  
RICHARD E. DEWLING  
COMMISSIONER

DEPARTMENT OF ENVIRONMENTAL PROTECTION