

Let's protect our earth



STATE OF NEW JERSEY
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)
(MONMOUTH COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE MARCH 8, 1990
AMENDMENT TO THE MONMOUTH 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 August 31, 1980, the Department approved, with modifications, the Monmouth 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 Monmouth County Board of Chosen Freeholders completed such a review and on March 8, 1990, adopted an amendment to its approved district solid waste management plan. The amendment proposed to include an update of the implementation schedule for the county's proposed resource recovery facility in Tinton Falls, including its technology, size, financial arrangements and traffic patterns. The amendment also proposed the deletion of the Waste Disposal, Inc. Landfill in Howell Township from the district plan.

The amendment was considered complete by the Department of Environmental Protection on March 28, 1990 and copies were distributed to various state level agencies for review and comment, as required by law. The Department has reviewed this amendment, and has determined that the amendment adopted by the Monmouth County Board of Chosen Freeholders on March 8, 1990, is remanded for modification as provided in N.J.S.A. 13:1E-24, for reconsideration consistent with the State's policies and plans resulting from the Emergency Solid Waste Assessment Task Force Final Report and subsequent Department action as further specified below.

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

Pursuant to N.J.S.A. 13:1E-24a(1), I, Judith A. Yaskin, Commissioner of the Department of Environmental Protection have studied and reviewed the March 8, 1990, amendment to the Monmouth 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 potentially inconsistent with the Statewide Solid Waste Management Plan.

In addition, the Division of Solid Waste Management circulated the plan amendment to fifteen 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 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 N.J.D.E.P. Division of Fish, Game and Wildlife, the State Department of Agriculture, and the Green Acres Program. The following agencies failed to respond to our requests for comments: the N.J.D.E.P. Division of Coastal Resources, the State Departments of Health, Community Affairs, Transportation and the Public Advocate, the New Jersey Turnpike Authority, the New Jersey Advisory Council on Solid Waste Management and the U.S. Environmental Protection Agency. The N.J.D.E.P. Divisions of Water Resources, Solid Waste Management, Parks and Forestry, and Environmental Quality, and the Board of Public Utilities submitted substantive comments which are further addressed below.

The N.J.D.E.P. Division of Water Resources (DWR) commented that the Waste Disposal, Inc. (WDI) Landfill in Howell Township has an expired NJPDES/SIU permit for the discharge of leachate from the landfill to the Ocean County Utilities Authority facility. The DWR received an application for this permit on September 6, 1988, which is pending further review. The Bureau has also received an amendment to the application to include the proposed reopening and an expansion of the landfill. Further, the Bureau commented that it is inappropriate to issue a NJPDES/SIU permit for the discharge of the leachate from the proposed expansion until the Division of Solid Waste Management approves such expansion. The Department concurs with the DWR's comments and hereby notifies the county and applicant of the above comments.

The Division of Parks and Forestry (DPF) commented that there will be an impact to cultural (archaeological) resources if the facility is expanded beyond its remaining 17.1 acres. In response, the Department shares the concerns of the DPF but notes that any potential impact to cultural resources is beyond the area included in the amendment. Also, an expansion of the WDI Landfill would require the submission of a new solid waste permit application which would address potential impacts on cultural resources.

The Division of Solid Waste Management (DSWM) commented that on April 6, 1990 Governor Florio issued Executive Order #8. This order, among other things, prohibited Departmental approval of any amendment that sited, increased the capacity of or approved financing for a waste-to-energy resource recovery facility for a 120 day period, which ended on August 6, 1990 with the issuance of a Task Force Final Report. Based upon the evolving nature of revised Statewide solid waste policy as framed in the Final Report, the Division of Solid Waste Management recommended that both the WDI landfill reopening and resource recovery facility elements of the amendment be remanded for reconsideration and possible modification consistent with the State's policies and plans resulting from the Task Force process and subsequent Department action. In response, the Department notes the Division of Solid Waste Management's comments, and in Section C. of this certification remands the amendment for potential modification.

The DSWM further commented that the Emergency Solid Waste Assessment Task Force Final Report recommended moving forward with the development of needed disposal facilities for the management of solid waste which cannot be reduced or recycled. In this regard, it was further recommended that each county conduct a thorough assessment of current landfill resources, as well as assessing technological options for volume reduction at landfills through compaction, shredding, baling, etc. Based upon these recommendations and the Executive Order #8 provisions which emphasize a 20 year, as opposed to a 10 year, planning horizon, it would be premature and imprudent to act upon the freeholder board's proposed deletion of the WDI landfill pending Governor Florio's review of the Task Force Final Report and subsequent Department and county actions. The DSWM also indicated that the tipping fee for the Waste Disposal, Inc. Landfill is projected to be higher than that of the Reclamation Center Landfill and such a disparity may discriminate economically against the towns directed to WDI and encourage waste flow violations. In response, the Department concurs with the DSWM's comments and advises the county and applicant of these issues.

The DSWM also commented with regard to the resource recovery component of the amendment that the project implementation schedule for the resource recovery facility (RRF) proposes a phased submittal of the permit application, final EHIS and Air Impact Assessment. The DSWM indicated that it does not approve of the above noted concept and prefers to receive a single complete submission of the required facility permits, FEHIS, EDR and supporting documents. Further, completion of meteorological and air quality data collection and submittal of the county/vendor "service agreement" to the New Jersey Board of Public Utilities were due in April 1990 and May 1990, respectively, as stated in the implementation schedule. However, verification with the county to determine the status of these milestones revealed that those phases were not complete as per the schedule. Therefore, the DSWM recommends that the RRF implementation schedule be modified accordingly. The DSWM further commented that the section of the proposed amendment which addresses the traffic patterns for the RRF fails to include specific routes from each municipality to the facility, which is inconsistent with N.J.S.A. 13:1E-21.a(4) and N.J.A.C. 7:26-2B.4(b)21. In response, by copy of this certification, the county is notified of these requirements.

Finally, the DSWM commented that the subject plan amendment provided financing arrangements for the resource recovery facility in order to satisfy the requirements of N.J.S.A. 13:1E-21.b.(6). However, the amendment acknowledged that additional amendments will be forthcoming to supplement the financial information provided. Future amendments will address the disbursement of monies from the Monmouth County District Resource Recovery Investment Tax Fund, as well as the sale of bonds for the construction of the facility. In response, by copy of this certification, the county is notified that future financing arrangements may be affected by the findings of the Task Force and subsequent policy implementation, and that this section of the amendment is also remanded below.

The Division of Environmental Quality (DEQ) commented that resource recovery facilities are subject to the general prohibition of air pollution as defined in N.J.A.C. 7:27-5. This regulation prohibits odors and other air contaminants which interfere with the enjoyment of life or property. RRFs are also subject to N.J.A.C. 7:27-8.2(a)14 and 16. These regulations require air pollution control permits and certificates for any incinerators and for any equipment which ventilates a solid waste facility directly or indirectly into the ambient atmosphere. The vents may require devices to limit emissions of odors and other air contaminants. New and modified equipment which emit air contaminants must incorporate advances in the art of air pollution control. For incineration, this usually includes scrubbing for hydrochloric acid control, a baghouse for particulate control, and burners in a secondary combustion zone for hydrocarbon control. Add-on nitrogen oxides control may also be required. Further, the combustion of used oil, and mixtures of used oil and other oil are subject to the provisions of N.J.A.C. 7:27-8.2(a)13 which requires that the combustion of such oil only be done in controlled devices with air pollution control permits specific to the combustion of used waste oil.

The DEQ also commented that if the proposed site for a RRF is located in an area which has been designated as attainment or unclassifiable for the national ambient air quality standards (NAAQS), a federal Prevention of Significant Deterioration (PSD) permit (issued by NJDEP under a delegation agreement) will be required. If the proposed site is located in a non-attainment area for any of the state or national ambient air quality standards, then the facility is subject to the provisions of N.J.A.C. 7:27-18, "Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality (Emission Offset Rule)". The facility will be required to secure emission offsets and control the emissions of the relevant criteria pollutant to the degree that represents the lowest achievable emission rate (LAER) if certain emission rates are exceeded. Air quality modeling will be required to determine the effect of the RRF on ambient air quality. The effect of all major sources of air contaminants near the proposed facility must be included in the modeling demonstrations. Additionally, the effect of traffic created by the construction and operation of the facility on ambient air quality must also be determined. DEQ further commented that at this time, any permit application for waste incineration with a charging capacity of over 800 pounds per hour should include: air quality modelling; cancer risk assessment for metals, dioxin, and PAH demonstrating low cancer risk on and off site; continuous emission monitoring and recording for opacity, carbon monoxide, oxygen, secondary chamber temperature, nitrogen oxides, sulfur dioxide and non-methane hydrocarbons; extensive stack testing after construction; and compliance with the Department's "Air Pollution Control Guidelines for Resource Recovery Facilities and Incinerators" March 1983, Amended November 1, 1984, Amended April 1987. In response, by copy of this certification, the county is notified of these comments.

Finally, DEQ commented that landfills are subject to the provisions of N.J.A.C. 7:27-5. This regulation prohibits odors and other air contaminants which interfere with the enjoyment of life or property. New and closed landfills should be equipped with positive ventilation systems which direct landfill gases to air pollution control devices. These vents and devices require air pollution control permits pursuant to N.J.A.C. 7:27-8.2(a)1 and 16. These regulations require permits for all stationary equipment used to ventilate a solid waste facility directly or indirectly to the ambient atmosphere. In response, the Department concurs with DEQ's comments concerning landfills and hereby notifies the county of these requirements.

The New Jersey Board of Public Utilities (BPU) commented that it is currently processing a rate petition from Waste Management, Inc. in anticipation of the re-opening of its landfill in Howell Township and will continue to process this petition until such time as a decision is made by the DEP concerning the landfill's future. In response, the Department is advised of the BPU's tentative review of the petition and will notify the BPU of its final decision concerning the March 8, 1990 amendment deleting the WDI Landfill from the plan.

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

I, Judith A. Yaskin, 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 March 8, 1990 amendment to the approved Monmouth County District Solid Waste Management Plan and certify to the Monmouth County Board of Chosen Freeholders that the March 8, 1990 amendment is remanded for modification as further specified below.

1. Proposed Resource Recovery Facility Elements and Deletion of the WDI Landfill:

On April 6, 1990, Governor James J. Florio signed Executive Order #8. This order created an Emergency Solid Waste Assessment Task Force and, among other things, temporarily prohibited the Department from any final approval of any solid waste management plan that sited, increased the capacity of or approved financing for a waste-to-energy resource recovery facility. The prohibition extended for 120 days from the date of the order and has since expired. On August 6, 1990, I transmitted the Task Force Final Report and recommendations to Governor Florio for his consideration. Regarding solid waste facilities, including incinerators, that report recommends that the Department determine the need for new facilities, primarily in light of recommended recycling rates and increased emphasis on regionalization. Pending the Governor's review, the Department finds it premature and imprudent to act upon the specific provisions of the proposed plan amendments. Therefore, the Department remands the components of the plan listed in items a., b., c., d., e. and f. below to the county, for reconsideration and possible modification consistent with the State's policies and plans resulting from the Task Force process and subsequent Department action. Once revised policies and plans are in place, I will decide whether the county's board of chosen freeholders must hold a public hearing concerning any modification, based upon my determination that the modification is or is not minor, and that the modification may or may not be made without substantially modifying or altering other aspects of the district solid waste management plan.

- a. The resource recovery technology to provide low technology material recovery followed by incineration shall be modified as described above.
- b. The nameplate capacity of the resource recovery facility at 1700 tons per day shall be modified as described above. This potential modification will supersede the previously designated capacity of 1500 tons per day as approved through the certification of the August 8, 1985 amendment to the Monmouth County plan.

- c. The updated implementation schedule below for the resource recovery facility shall be modified as described above.

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|-------|---|-----------------------------------|
| (i) | Submittal of county/vendor "Service Agreement" to NJ Board of Public Utilities | September, 1990 |
| (ii) | Submittal of solid waste facility permit application to NJDEP | November, 1990 |
| (iii) | Complete and sign contract for sale of electricity to power utility | January, 1991 |
| (iv) | Preparation of additional documentation and responses to comments by the Board of Public Utilities and the Department of Environmental Protection | November, 1990- December, 1991 |
| (v) | Receipt of permits from the NJDEP | April, 1992 |
| (vi) | Begin construction of facility | May, 1992 |
| (vii) | Begin operation of facility | December, 1994 |

Although the above implementation schedule has been modified, its inclusion in the district plan remains subject to reconsideration consistent with the State's policies and plans resulting from the Task Force process and subsequent Department action.

- d. The portions of the plan amendment that pertain to the financing arrangements for the resource recovery facility shall be modified as described above. The current financing arrangements for the RRF shall remain approved to the extent that they will be consistent with any approved service agreement to be executed by the Monmouth County Improvement Authority and the county's selected vendor, and any applicable bond ordinances. Accordingly, the Department acknowledges that the county will submit additional plan amendments that will address disbursement of monies from the Monmouth County District Resource Recovery Investment Tax Fund, as well as the sale of bonds for the construction of the facility.
- e. The conceptual traffic routing plan to the resource recovery facility as proposed in the amendment shall be modified as described above. However, the proposed conceptual traffic

routing plan to the RRF shall specifically identify each route to the facility. Further, routes will also be designated by the county to haul residual wastes from the RRF if facilities other than the Monmouth County Reclamation Center facility are utilized.

f. Waste Disposal, Inc. Landfill

The deletion of the Waste Disposal, Inc. Landfill from the Monmouth County Solid Waste Management Plan shall be modified as described above. As indicated within Section B. of this certification, policy and regulatory changes may arise based upon the specific recommendations contained within the Emergency Solid Waste Assessment Task Force Final Report. Policy changes in such areas as the planning horizon for district solid waste management plans, requirements pertaining to the use of volume reduction equipment at landfills and county-by-county assessments of disposal capacity needs may impact upon any decision regarding the reopening of the WDI landfill. Therefore, it would be premature and imprudent for me to specifically act upon the freeholder board's proposed deletion of the site from the plan at this time.

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 Monmouth 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 Monmouth 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 Monmouth County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Monmouth 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 Plan

The provisions of the Monmouth 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 Monmouth 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 remanded 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 remanded amendment to the Monmouth 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 Monmouth 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.

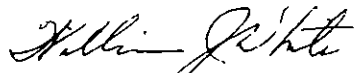
8. Modification Procedures

Pursuant to N.J.S.A. 13:1E-24d., remands for modification shall be accompanied by a statement indicating the reasons for the modification and the action to be taken thereon. That section of the Act indicates that if the Commissioner determines a modification is major, the freeholder board must hold an additional public hearing to enact the modification. If the modification is minor, no further public hearing need take place. The instant remand requires that the Monmouth County District Solid Waste Management Plan be amended to be consistent with the task force's report and final recommendations which should be issued on or around August 6, 1990. Until that report is issued and the Governor acts on the final report, the Department is unable to ascertain the extent of modification necessary to be consistent. Therefore, subsequent to issuance of the task force's report, the Commissioner will contact the freeholder board in writing to notify it of her determination of whether the modification is major or minor in light of the content of the task force's report. Thereafter, the timing and procedures set forth in N.J.S.A. 13:1E-24e or 13:1E-24f shall apply as the case may be.

E. Certification of Potential Modification 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 remand for modification the amendment as outlined in Section C. of this certification to the Monmouth County District Solid Waste Management Plan which was adopted by the Monmouth County Board of Chosen Freeholders on March 8, 1990.

August 24, 1990
DATE

for 
JUDITH A. YASKIN
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION