



State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RICHARD T. DEWLING, Ph.D., P.E.
COMMISSIONER
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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 APRIL 22, 1986
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, 1981, 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 April 22, 1986, adopted an amendment to its approved district solid waste management plan. The amendment proposes to reopen the inactive phase I landfill at the Monmouth County Reclamation Center in the Borough of Tinton Falls for the interim disposal of waste generated in Monmouth County until the phase II landfill, cell 4, is operational.

The amendment was received by the Department of Environmental Protection on May 7, 1986, and copies were distributed to various state level agencies for review and comment, as required by law. The Department has reviewed this amendment, as well as the entire Monmouth County District Solid Waste Management Plan, and has determined that the amendment adopted by the Monmouth County Board of Chosen Freeholders on April 22, 1986, is approved as provided in N.J.S.A. 13:1E-24. With regard to the district plan, while the requirements of the Act concerning the report have been met, the district's plan remains deficient in some important ways.

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, Richard T. Dewling, Commissioner of the Department of Environmental Protection have studied and reviewed the April 22, 1986, 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 fully consistent with the Statewide Solid Waste Management Plan.

In addition, the Division of 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 N.J.D.E.P. Divisions of Environmental Quality, Water Resources, Fish, Game and Wildlife, Parks and Forestry, and Coastal Resources; the State Departments of Agriculture, Health, Community Affairs, and Transportation; the Board of Public Utilities, the Green Acres Program, the Office of Recycling, and the New Jersey Advisory Council on Solid Waste Management. The following agencies failed to respond to our requests for comments: the State Department of the Public Advocate; the New Jersey Turnpike Authority, and the U.S. Environmental Protection Agency. None of the state level agencies submitted substantive comments.

Although no substantive comments were generated during the state level review process, a discussion of the circumstances surrounding the pending amendment is appropriate. On April 10, 1986, a Consent Judgment was entered into between Monmouth County and the Department to accommodate interim disposal of the district's waste pending the preparation of the next lined cell (area 4, phase II landfill) at the Monmouth County Reclamation Center. The Consent Judgment specified numerous conditions that the county was required to meet relative to the temporary utilization of the phase I facility, including, among other things, the length of operation, penalties for operating beyond the deadline of May 15, 1986, engineering requirements for operation and closure of the phase I landfill, and the submission of a mandatory recycling plan amendment

by August 8, 1986. On May 9, 1986, an Amended Consent Judgment was entered into between Monmouth County and the Department amending the above noted April 10, 1986, order. The initial judgment provided for the addition of only one lift on the phase I landfill. However, the county realized that one lift would not provide sufficient disposal capacity, so on May 9, 1986, the Amended Consent Judgment was signed to provide for a second lift on the phase I landfill. In addition, this latter order provided for Monmouth County to pay stipulated penalties to the Department beyond those specified in the April 10, 1986, Consent Judgment at a rate of: (1) \$2,500 for each day Monmouth County conducted landfilling activity in the second lift; and (2) and additional \$2,500 for each day the county conducted any landfilling activities in the phase I landfill after May 15, 1986. Since landfilling activities continued on the second lift of the phase I landfill until May 23, 1986, the Department agreed to total penalties of \$25,000. This amount was substantially less than that actually owed, which was agreed to by the Department in recognition of Monmouth County's cooperation in resolving the disposal crisis. It should be noted that the county has failed to meet the August 8, 1986, deadline for submission of a mandatory recycling plan amendment. Although this deadline was not met, it is the Department's understanding that the county has proposed a recycling program, which will be the subject of a future plan amendment to be submitted shortly.

C. Certification of Monmouth 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 April 22, 1986, amendment to the approved Monmouth County District Solid Waste Management Plan and certify to the Monmouth County Board of Chosen Freeholders that the April 22, 1986, amendment is approved as further specified below.

1. As adopted, the amendment provides for the reopening of the inactive phase I landfill at the Monmouth County Reclamation Center on a portion of Block 131, Lot 19.01, in the Borough of Tinton Falls for interim disposal of the county's waste until May 15, 1986.

The Monmouth County Board of Chosen Freeholders adopted the amendment under consideration in order to formalize the emergency utilization of the phase I section of the Monmouth County Reclamation Center as noted above. Despite the facility's actual operation in this phase until May 23, 1986, and the associated fines levied in this regard, the Department retrospectively approves for plan inclusion, the use of the phase I facility until May 15, 1986. This approval pertains solely to the prior use of this area of the Monmouth County Reclamation Center landfill and does not authorize or imply any additional use beyond the above noted date.

2. The Department has reviewed the entire Monmouth County District Solid Waste Management Plan, including this amendment, to determine whether the plan fulfills the requirements set forth in N.J.S.A. 13:1E-21. The result of that review is as follows:
 - a. N.J.S.A. 13:1E-21b (1) requires the designation of a department, unit, or committee of county government . . . to supervise the implementation of the County's Solid Waste Management Plan.

To date, Monmouth County has still not designated an acceptable unit of county government to implement the district's solid waste management plan. Therefore, the Monmouth plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(1).

- b. N.J.S.A. 13:1E-21b(2) requires a statement of the solid waste disposal strategy to be applied . . . which strategy shall include the maximum practicable use of resource recovery procedures and a plan for using terminated landfill disposal sites . . . in the Solid Waste Management District.

An August 8, 1985, amendment to the Monmouth County District Solid Waste Management Plan specified a May/June 1986, decision/commitment point on whether to proceed with development of a resource recovery facility and this deadline has not been met. Also, the county plan still does not comply with Judge Skillman's March 8, 1985, Consent Judgment which specified the identification of proposed uses for each terminated landfill site and any legal or institutional measures necessary to implement the individual land use strategies. Finally, the county has not complied with the Consent Judgment of April 10, 1986, which specified that within 120 days Monmouth County must submit to the DEP an amendment which provides for the adoption of mandatory recycling of a least (3) recyclables (one of which must be leaves) in each municipality. Therefore, the Monmouth County Solid Waste Management Plan still remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b(2).

- c. N.J.S.A. 13:1E-21b(3) requires a site plan which shall include all existing solid waste disposal facilities located within the Solid Waste Management District . . . and sufficient additional available suitable sites to provide solid waste facilities to treat and dispose of the actual and projected amounts of solid waste contained in the report accompanying the plan.

The Department is in receipt of Resolution 86-118 adopted by the Monmouth freeholders on February 13, 1986, which designates the Monmouth County Reclamation Center in Tinton Falls as the site for centralized resource recovery facilities. However, a plan amendment including this site into the district plan has not yet been received. Therefore, the Monmouth County plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b.(3).

- d. N.J.S.A. 13:1E-21b(6) requires a method or methods of financing solid waste management in the Solid Waste Management District pursuant to the Solid Waste Management Plan.

Monmouth County has not provided a detailed plan for financing all solid waste management activities, including the development of resource recovery. Therefore, the Monmouth County District Solid Waste Management Plan remains deficient with respect to the requirements of N.J.S.A. 13:1E-21b.(6).

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 Plans

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 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 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.

E. Certification of Approval 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 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 April 22, 1986, and further direct the Monmouth County freeholders to remedy those deficiencies referenced in Section C. of this certification as soon as possible.

SEP 19 1986

DATE



RICHARD T. DEWLING
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION