

State of New Jersey
Department of Environmental Protection and Energy
Office of the Commissioner
CN 402
Trenton, NJ 08625-0402
Tel. # 609-292-2885
Fax. # 609-984-3962

Scott A. Weiner
Commissioner

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

CERTIFICATION OF THE
APRIL 24, 1991 AND MAY 8, 1991
AMENDMENTS TO THE MORRIS 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 January 29, 1981, the Department of Environmental Protection approved, with modifications, the Morris 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 plan at any time and, if found inadequate, a new plan must be adopted. The Morris County Board of Chosen Freeholders (County Freeholders) completed such a review and on April 24, 1991 and May 8, 1991, adopted amendments to their approved County Plan.

The April 24, 1991 amendments proposed the redesignation of the County solid waste management implementation agency from the MCMUA to the County Department of Solid Waste Management and also the inclusion of the Amended Settlement Agreement, dated February 27, 1991, between Morris County Transfer Station, Inc. (MCTS), the County of Morris, and the Morris County Municipal Utilities Authority (MCMUA). This Settlement Agreement extends the MCTS franchise from January 1, 1993 to December 31, 1994, transfers the franchise from the MCTS to the County effective January 1, 1993, and sets rates at the transfer stations for the franchise period.

The May 8, 1991 amendments proposed inclusion of the Morris County Recycling Consolidation Center in Dover and the deletion of recycling consolidation centers adjoining the two existing Morris County Transfer Stations which were previously included in the County Plan. These formerly proposed recycling center locations have been replaced by the Dover facility designation.

The April 24, 1991 and May 8, 1991 amendments were received by the Department on May 23, 1991 and June 13, 1991, respectively, and copies were distributed to various administrative review agencies for review and comment, as required by law. The Department has reviewed these amendments, as well as the entire County Plan, and has determined that the April 24, 1991 amendments are modified in part and rejected in part, and the May 8, 1991 amendments are approved as provided in N.J.S.A. 13:1E-24. Also, deficiencies in the County Plan have been identified within Section C. of this certification.

B. Findings and Conclusions with Respect to the Morris County District Solid Waste Management Plan Amendments

Pursuant to N.J.S.A. 13:1E-24a(1), I, Scott A. Weiner, Commissioner of the Department of Environmental Protection and Energy (Department or DEPE), have studied and reviewed the April 24, 1991 and May 8, 1991 amendments 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 these plan amendments are consistent in part with the Statewide Solid Waste Management Plan.

In conjunction with the review of these amendments, the Department circulated copies to fifteen 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 were the following:

Division of Environmental Quality, DEPE
Division of Water Resources, DEPE

Division of Coastal Resources, DEPE
Division of Parks and Forestry, DEPE
Division of Fish, Game and Wildlife, DEPE
Division of Solid Waste Management, DEPE
Green Acres Program, DEPE
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 the Public Advocate
U.S. Environmental Protection Agency

1. Agency Participation in the Review of the April 24, 1991 Amendments

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

Division of Environmental Quality, DEPE
Division of Water Resources, DEPE
Division of Coastal Resources, DEPE
Division of Parks and Forestry, DEPE
Green Acres Program, DEPE
New Jersey Turnpike Authority
Department of Agriculture
Department of Transportation

The following agencies did not respond to the Department's requests for comments:

Division of Fish, Game and Wildlife, DEPE
New Jersey Advisory Council on Solid Waste Management
Department of Health
Department of Community Affairs
Department of the Public Advocate
U.S. Environmental Protection Agency

The following agency submitted substantive comments which are further addressed below:

Division of Solid Waste Management, DEPE

2. Agency Participation in the Review of the May 8, 1991 Amendments

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

Division of Coastal Resources, DEPE
Division of Parks and Forestry, DEPE
Division of Fish, Game and Wildlife, DEPE
Division of Solid Waste Management, DEPE
Green Acres Program, DEPE
Department of Agriculture
Department of Community Affairs

The following agencies did not respond to the Department's requests for comments:

New Jersey Turnpike Authority
New Jersey Advisory Council on Solid Waste Management
Department of Health
Department of Transportation
Department of the Public Advocate
U.S. Environmental Protection Agency

The following agencies submitted substantive comments which are further addressed below:

Division of Environmental Quality, DEPE
Division of Water Resources, DEPE

3. Comments Received for the April 24, 1991 Amendments

Issue: Regulatory Requirements for the Operation of the Morris County Transfer Stations

Comment: The Division of Solid Waste Management (DSWM) commented that the proposed amendments would extend the utilization of the two MCTS transfer stations located in Mount Olive and Parsippany-Troy Hills until December 31, 1994. However, the existing Master Performance Permits for these facilities will expire on January 1, 1993. Therefore, MCTS will need to apply for, and obtain from the DSWM, a solid waste facility permit to operate the transfer station facilities beyond January 1, 1993.

Response: The issue of specific regulatory requirements is more appropriately addressed during the Department's technical phase of the permit review process. By copy of this certification, the County Freeholders and Morris County Transfer Station, Inc. are notified of this requirement and the DSWM of this response.

Issue: Modifications Required to the Rate Settlement Agreement

Comment: The DSWM commented that the County Freeholders adopted an amendment to their County Plan on November 28, 1989 which incorporated within the plan an earlier Rate Settlement Agreement between MCTS, the County, and the MCMUA. The Rate Settlement Agreement was the subject of the Board of Public Utilities (BPU or Board) Final Order Adopting in Part and Modifying in Part Initial Decision Settlement, BPU Docket Numbers SE87111370 and SR89040359, dated March 5, 1990. The BPU order approved the first 13 paragraphs of the Settlement Agreement and modified the settlement to reflect the fact that the reduced rates for 1990 took effect on the date of the order. The BPU order did not take any action concerning the remaining portions of the Settlement Agreement. The Department certified the plan inclusion of this amendment on May 10, 1990.

On February 27, 1991, MCTS, the County, and the MCMUA entered into the Amended Settlement Agreement which provided for the stabilization in the rates at the transfer stations in question from 1992 through 1994 and

permitted the County to obtain the franchise held by MCTS after 1992. On March 11, 1991, the MCTS filed a request with the BPU seeking an approval of the Amended Settlement Agreement. On September 16, 1991, the Board of Regulatory Commissioners (BRC) issued an Order memorializing the action taken by the then BPU on August 14, 1991 which found the proposed modifications to the Settlement Agreement to be reasonable, in the public interest, and in accordance with the law. The BRC accepted the modification subject to certain clarifications which are set forth within the September 16, 1991 Order.

Response: Within Section C. of this certification, the Rate Settlement Agreement between the MCTS, the County, and the MCMUA is approved with modification. The modification is to reflect those changes required by the BRC within their Order of September 16, 1991 which is incorporated by reference as part of this certification. By copy of this certification, the County Freeholders, the MCTS, and the MCMUA are notified of this approval with modification.

Issue: Redesignation of the Morris County Plan Implementation Agency

Comment: The DSWM indicated that no justification for the proposed change in implementation agency was provided within the amendment with the exception of a general statement that such a change ". . . is in the best interest of the residents of Morris County due to its cost savings resulting from consolidation of services." Currently, Morris County is an exporter of solid waste and has failed to develop needed in-county disposal projects or enter into any interdistrict agreements with other counties for the provision of disposal capacity. As such, the county can ill-afford lost time in solid waste planning and implementation. Therefore, in the absence of a detailed justification for the change in implementing agency, the DSWM recommends rejection of the amendment until solid waste planning, project implementation, and economic benefits associated with agency redesignation are presented by the County.

Response: Within Section C. of this certification, the redesignation of the County implementation agency is rejected. Such action can not be justified in light of substantive planning concerns and the absence of supporting documentation. While I recognize the County's inherent authority to redesignate the implementing agency, I must be assured that such an action will not disrupt the County's or State's solid waste management activities. The DEPE will reconsider the redesignation of the implementation agency should the County submit supporting data in a subsequent plan amendment which clearly justifies the benefits of agency redesignation. By copy of this certification, the County Freeholders and the DSWM are notified of this response.

4. Comments Received for the May 8, 1991 Amendments

Issue: Specific permitting requirements for the planned Morris County Recycling Consolidation Centers

Comment: The Division of Environmental Quality (DEQ) commented that recycling centers are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution." Also, recycling centers are considered

solid waste facilities, which 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.

The Division of Water Resources (DWR) commented that if the proposed Morris County Recycling Consolidation Center will discharge pollutants as defined in N.J.A.C. 7:14A-1.9, said operation must secure a New Jersey Pollutant Discharge Elimination System (NJPDES) permit and/or a Treatment Works Approval for pollutant discharges prior to operation.

Response: The issue of specific regulatory requirements is more appropriately addressed during the Department's approval review process. By copy of this certification, the DSWM will be apprised of this comment. Also, by copy of this certification, the County Freeholders are notified of this response.

C. Certification of the Morris County District Solid Waste Management Plan Amendments

I, Scott A. Weiner, Commissioner of the Department, 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, have reviewed the April 24, 1991 and May 8, 1991 amendments to the approved County Plan and certify to the County Freeholders that the April 24, 1991 amendments are modified in part and rejected in part and the May 8, 1991 amendments are approved as further specified below.

1. April 24, 1991 Amendments

a. Amended Settlement Agreement

The district plan inclusion of the Amended Settlement Agreement, dated February 27, 1991, is approved as modified within the Board of Regulatory Commissioners September 16, 1991 Order which is incorporated by reference within this certification. This modification is final and does not require subsequent County Freeholder action.

b. Designation of Implementation Agency

The plan inclusion of the designation of the Morris County Department of Solid Waste Management as the new plan implementation agency to replace the MCMUA is rejected. In the absence of supporting documentation, the County has not demonstrated that its mission in solid waste planning and implementation will be better served by the proposed change in the implementation agency. Without suitable justification, it is unclear that the agency redesignation will not disrupt the County or State's solid waste management activities. This issue will be reconsidered should Morris County adopt another plan amendment which clearly justifies the solid waste planning, project implementation, and economic benefits of agency redesignation.

2. May 8, 1991 Amendments

a. **Morris County Recycling Consolidation Center, Dover Township**

The district plan inclusion of the Morris County Recycling Consolidation Center, located at 22 Richboynton Road, Lot 1, Block 603, in the Town of Dover, Morris County is approved. This center will accept traditional recyclable materials such as source separated nonhazardous metal, glass, paper, plastic containers, and corrugated cardboard from residential, commercial and institutional sectors. The center will process approximately 30 tons per day of recyclable material, or 7,500 tons per year, based on 250 working days per year. Trucks utilizing the center are prohibited from using local roads in the Town of Dover to access the center unless they originate within the Town of Dover. Exclusive of those trucks originating within the Town of Dover, all trucks which meet the federal highway bridge formula shall utilize Interstate 80 to State Highway Route 15 to Richboynton Road or, if unable to meet the federal bridge weight limits, State Highway 46 to State Highway Route 15 to Richboynton Road.

b. **Plan Deletion of Recycling Centers**

The district plan deletion of the proposed establishment of two recycling consolidation centers to be located adjoining the two Morris County transfer stations located in Mount Olive Township and Parsippany-Troy Hills Township is approved. Previously, the County Freeholders had adopted the County Recycling Plan in October 1988, which was certified on March 8, 1989, that called for the establishment of these two large-scale recycling consolidation centers adjoining the two existing transfer stations to increase recycling within the County. With the designation of the above noted recycling consolidation center in Dover, the two proposed recycling consolidation centers will no longer be needed.

3. Morris County District Solid Waste Management Plan Deficiencies

On April 19, 1991, the Department certified the October 24, 1990 and November 28, 1990 amendments to the County Plan. In that certification, deficiencies in the County Plan were noted and the County was directed to address these deficiencies within 180 days of date of the certification or October 16, 1991. Specifically, these deficiencies pertain to the lack of available suitable sites to provide solid waste facilities to treat and dispose of the solid waste generated, a transportation plan, a solid waste facility financing plan, and the need to address the recommendations of the Governor's Emergency Solid Waste Assessment Task Force Report relative to achieving source reduction, recycling, and regionalization. By copy of this certification, I am again directing the County to comply with this directive.

D. Other Provisions Affecting the Plan Amendments

1. Contracts

Any contract renewal or new contract for solid waste collection or disposal which is inconsistent with these approved amendments to the County Plan and which was executed prior to the approval of these amendments 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 these amendments and of the County Plan if such renegotiation is not completed within ninety (90) days of the effective date of these amendments, 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 approved amendments contained herein shall operate in compliance with these approved amendments 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. 7:26-6.

4. Certification to Proceed with the Implementation of the Plan Amendments

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 amendments certified herein.

5. Definitions

For the purpose of these amendments 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 and N.J.A.C. 7:26-1.4 and -2.13.

6. Effective Date of the Amendments

The approved amendments 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. The Department has published a 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, Modification, and Rejection of the Amendments and Notification of Deficiencies by the Commissioner of the Department of Environmental Protection and Energy

In accordance with the requirements of N.J.S.A. 13:1E-1 et seq., I hereby approve, modify in part, and reject in part the amendments, as outlined in Section C. of this certification, to the Morris County District Solid Waste Management Plan which were adopted by the Morris County Board of Chosen Freeholders on April 24, 1991 and May 8, 1991. I hereby also require, as noted in Section C., the Morris County Board of Chosen Freeholders to address the noted deficiencies within the timeframes specified. This certification memorializes the determinations made by me on or before October 19, 1991.

Oct 17 1991
DATE



SCOTT A. WEINER
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND ENERGY