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STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
JUDITH A. YASKIN, COMMISSIONER
CN 402
TRENTON, N.J. 08625-0402
(609) 292-2885
Fax: (609) 984-3962

(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 SEPTEMBER 13, 1989
AMENDMENT 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 approved, with modifications, the Morris 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 Morris County Board of Chosen Freeholders completed such a review and on September 13, 1989, adopted an amendment to its approved district solid waste management plan. The amendment proposed inclusion of two additional facilities in the plan: the S. Rotundi and Sons leaf transfer station located in Chatham Borough and the St. Clares-Riverside Medical Center of Morris County incinerator located in Denville Township. The amendment also proposed a financial plan and disbursement schedule for the county's Resource Recovery Investment Tax Fund.

The amendment was received by the Department of Environmental Protection on October 13, 1989, 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 Morris County District Solid Waste Management Plan, and has determined that the amendment adopted by the Morris County Board of Chosen Freeholders on September 13, 1989 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 Morris 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 September 13, 1989 amendment to the Morris 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 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. Divisions of Water Resources and Fish, Game and Wildlife, the Green Acres Program, the State Departments of Agriculture and Community Affairs, the Board of Public Utilities 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 Parks and Forestry and Coastal Resources; the State Departments of Health, Transportation and the Public Advocate, the New Jersey Turnpike Authority and the U.S. Environmental Protection Agency. The Divisions of Solid Waste Management and Environmental Quality submitted substantive comments which are further addressed below.

The Division of Environmental Quality commented that incinerators are subject to the provisions of N.J.A.C. 7:27-5, "Prohibition of Air Pollution". This regulation prohibits odors and other air contaminants which interfere with the enjoyment of life or property. Incinerators are also regulated under N.J.A.C. 7:27-11, "Incinerators". This regulation defines the construction, operation, and emission standards for all incinerators. Additionally, incinerators are subject to the provisions of N.J.A.C. 7:27-8.2(a)14, which requires permits and certificates for any incinerator. New and modified equipment which emits 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. The DEP had required much less stringent controls for incineration facilities under 800 pounds per hour charging capacity, but tightened its guidelines in June 1989. At this time, DEP requires that, at a minimum, scrubber air pollution control shall be installed achieving less than 0.03 grains of particulates per dry standard cubic feet (gr/dscf), adjusted to 7% oxygen, and at least 90% reduction in hydrochloric acid emissions. New incineration facilities are required to install more advanced control technologies, such as spray driers and baghouses, to achieve 0.015 gr/dscf at 7% oxygen. Also, the DEP is considering rulemaking to require retrofitting of better air pollution controls for existing waste incinerators.

At this time, any permit application for waste incineration shall include:

1. Air quality modelling and an evaluation of downwash, which demonstrate sufficient stack height.
2. Cancer risk assessment for metals and dioxin, demonstrating low cancer risk on and off site.
3. Continuous emission monitoring and recording for carbon monoxide, oxygen, and secondary chamber temperature.
4. Extensive stack testing after construction.
5. Compliance with the Department's "Air Pollution Control Guidelines for Resource Recovery Facilities and Incinerators" March 1983, Amended November 1, 1984, Amended April 1987, if over 800 pounds per hour charging capacity.

Also, the Division of Environmental Quality commented that transfer stations 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. By copy of this amendment, Morris County is notified of the comments of the Division of Environmental Quality.

The Division of Solid Waste Management commented that the provision of the "McEnroe" legislation (N.J.S.A. 13:1E-136 et seq.) which established District Resource Recovery Investment Tax (RRIT) Fund accounts for the State's 21 counties, sets out a clear State policy objective to generate revenues in order to subsidize anticipated resource recovery tipping fees to a level which is competitive with disposal costs at landfills utilized by the counties. The subsidies created by this legislation also were designed as incentives to make the transition from landfill disposal to capital intensive resource recovery technologies. Thus, the purposes of the Act are to provide financial assistance to counties in order to expedite resource recovery technology implementation and to provide user benefits through a reduction in the tipping fees at resource recovery facilities. If a county can demonstrate to the satisfaction of the Department that utilization of a resource recovery facility is not feasible for the disposal of solid waste generated in the county, then the District Resource Recovery Investment Tax Fund may be used to design, finance, construct, operate or maintain environmentally sound state-of-the-art sanitary landfill facilities.

Prior to disbursement from its District Resource Recovery Investment Tax Fund, however, a county must prepare a plan amendment which outlines the proposed uses of the moneys in the fund. Thus, two tests must be met: an eligible use test, which uses are limited to those identified in N.J.S.A. 13:1E-150b. et seq., and a disbursement schedule test, which test criteria are not specifically provided for in the Act.

In consideration of the intent and objectives of the Act outlined above and the specific limitations upon eligible uses of the fund provided in N.J.S.A. 13:1E-150 et seq., projects not formally identified in the approved district solid waste management plan shall not be funded with Resource Recovery Investment Tax Fund moneys. Therefore, in order to ensure users rate reduction, and to facilitate timely project implementation, disbursements from a district Resource Recovery Investment Tax Fund shall be made only to projects formally identified in the approved district solid waste management plan.

Pursuant to law, in order to provide safeguards as to how the investment tax funds are to be spent, a schedule for the disbursement of the moneys must also be provided through the plan amendment process established under the New Jersey Solid Waste Management Act (N.J.S.A. 13:1E-1 et seq.). In this way, a formal procedure for quantifying contributions to and withdrawals from the fund is established in order to maintain a running fund balance. Such a procedure may be followed using a variety of specific steps and methods of data presentation. The amendment proposes that Morris County will hold all moneys in its district RRIT Fund in an escrow account until commencement of operation of the resource recovery facility designated in the district solid waste management plan. The moneys will provide annual payments to the operator to reduce taxable debt service and operating/maintenance costs, thereby reducing rates for all users. The disbursement schedule included in the plan amendment also proposed that the cost of program audits for 1985 through 1987 and the 2% administration costs for the period 1988 through 1995 be permitted pursuant to N.J.S.A. 13:1E-150b.5.

The Department has determined that the proposed use of moneys from the Morris County District Resource Recovery Investment Tax Fund is both eligible and in conformance with the requirements of N.J.S.A. 13:1E-150b et seq. Such use will reduce the disposal cost of solid waste to be processed at the proposed resource recovery facility designated in the district solid waste management plan, thereby reducing rates charged to all users of the facility. The Department notes that the resource recovery facility site presently included within the district plan pursuant to a December 11, 1985 amendment, which was certified on March 25, 1986, is a site in Rockaway Township. The September 13, 1989 amendment identifies the resource recovery facility site as the Eden Lane site in Roxbury Township. This site was the subject of an amendment adopted by the Morris County freeholders on May 24, 1989. However, Superior Court Judge Reginald Stanton ruled that the May 8, 1989 public hearing for the amendment was not properly noticed and declared the May 24, 1989 amendment invalid. Subsequently, Morris County adopted an amendment on December 27, 1989 redesignating the site of the resource recovery facility from Rockaway Township to Roxbury Township. Therefore, since the Department has not yet certified this redesignation, the approval in Section C. is contingent upon Departmental certification of the redesignation of the resource recovery facility site.

Finally, the Division of Solid Waste Management commented that the St. Clares-Riverside medical waste incinerator is required to obtain a solid waste facility permit pursuant to N.J.A.C. 7:26-2 and 7:26-2B, prior to the expiration of the facility's current air pollution control permit, which is issued by the Division of Environmental Quality pursuant to N.J.A.C. 7:27. Also, the Division commented that on March 6, 1989, Governor Kean signed into law the "Comprehensive Regulated Medical Waste Management Act", P.L. 1989, c. 34. This legislation provides a distinction between a commercial facility and a non-commercial facility and imposes a ban of at least one year on Departmental approval of any new commercial regulated medical waste incinerator. The Act defines a non-commercial facility as one "which accepts regulated medical waste from other generators for a cost-based fee not in excess of the costs actually incurred by the facility or on-site generator for the treatment or disposal of the regulated medical waste." The Act also grandfathered all existing medical waste disposal facilities into their respective district solid waste management plans. The approval of the St. Clares Riverside medical waste incinerator must be limited to its existing sole source status. By copy of this certification, Morris County is notified of all the above mentioned comments of the Division of Solid Waste Management.

C. Certification of Morris 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 September 13, 1989 amendment to the approved Morris County District Solid Waste Management Plan and certify to the Morris County Board of Chosen Freeholders that the September 13, 1989 amendment is approved as further specified below.

1. The inclusion within the district plan of the S. Rotundi and Sons leaf transfer station located at Lot 16, Block 140, in the Borough of Chatham, Morris County, is approved. The property shall remain as an M-3 (Industrial) zone, fenced with an access gate to control vehicular traffic and prevent illegal dumping. The facility will handle only leaves and grass clippings (ID 23). The transfer station shall accept the vegetative matter from municipalities within Morris, Essex and Union Counties as well as private landscapers, depending on availability, under a contractual agreement. Priority consideration shall be given to the acceptance of Morris County leaves and grass clippings should the facility operate near capacity levels. The facility will compact leaves and grass matter. Trucks hauling loose vegetative matter shall enter the site along Watchung Ave., then be directed to the unloading ramp to empty loads into a compactor hopper. The leaves will then be compacted into a transfer trailer and hauled to the S. Rotundi and Sons Compost Facility in Warren County or to a DEP permitted composting facility. The projected maximum capacity of the transfer station is approximately 1500 cubic yards or 260 tons per day. There shall be no storage of leaves on the grounds, and all deliveries shall be compacted upon arrival to prevent any odor generated from the operation. The construction and 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.

2. The inclusion within the district plan of an existing medical waste incinerator, located on Lot 2, Block 50002, in the Township of Denville, operated by St. Clares-Riverside Medical Center, Denville, Morris County, is approved. The medical center shall incinerate only regulated medical waste as defined by N.J.A.C. 7:26-3A and hospital waste such as medical instruments, supplies, containers, glass, tubing, bandages, etc. used by health care practitioners and facilities which are generated solely in the Denville Division of St. Clares-Riverside Medical Center. Type 10 waste generated by the medical center shall be transferred to and disposed of at the appropriate facility as specified in the Morris County District Solid Waste Management Plan. The incinerator shall operate on a schedule of eight (8) hours per day or approximately 2,920 hours per year. The approved burning rate of the incinerator is 600 pounds per hour. As noted in Section B. of the certification, under the Comprehensive Regulated Medical Waste Management Act (P.L. 1989, c. 34) signed by Governor Kean on March 6, 1989, a moratorium or a ban of at least one year is imposed on Departmental approval or consideration of any new commercial medical waste incinerator. Therefore, the plan inclusion approval of new facilities which were not in operation and accepting regulated medical waste on or prior to March 6, 1989 is restricted to non-commercial use. The construction or operation of any solid waste facility shall be preceded by the acquisition of all necessary permits and approvals pursuant to N.J.S.A. 13:1E-1 et seq., and all applicable laws. The 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.
3. The inclusion within the district plan of the use of the Morris County Resource Recovery Investment Tax Fund: (1) to provide annual payments to the operator of the resource recovery facility designated in the district solid waste management plan, (2) to provide for the cost of the program audit for the period 1985 through 1987, and (3) to provide an annual 2% administration fee to the district, are consistent with the requirements of N.J.S.A. 13:1E-150 et seq. and are approved. The disbursement of RRIT funds is contingent upon Departmental certification of the redesignation of the resource recovery facility site from Rockaway Township to Roxbury Township. The ultimate demonstration of user rate reduction shall be the responsibility of the county.

The Department has also reviewed the entire Morris 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:

1. 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.

Morris County remains deficient with respect to N.J.S.A. 13:1E-21b(3) due to the failure of the county to site an in-county landfill or to enter an interdistrict agreement with another New Jersey district for the use of landfill disposal capacity.

2. N.J.S.A. 13:1E-21b(4) requires a survey of proposed collection districts and transportation routes with projected transportation costs from collection districts to existing or available suitable sites for solid waste disposal facilities.

Morris County must submit to the Department a study summarizing transportation costs and routes to the proposed resource recovery facility. Once an in-county landfill site has been designated and approved, a similar study for this site must be conducted. Therefore, Morris County remains deficient with respect to N.J.S.A. 13:1E-21b(4).

3. 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.

In the absence of a comprehensive solid waste financial plan which outlines how the proposed resource recovery facility and landfill disposal needs will be financed, Morris County remains deficient with respect to 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 Morris 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 Morris 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 Morris County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Morris 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 its 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 Morris 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 Morris 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 Morris 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 Morris 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 Morris County District Solid Waste Management Plan which was adopted by the Morris County Board of Chosen Freeholders on September 13, 1989. I also hereby direct Morris County to address the remaining deficiencies in its district plan as soon as possible.

March 10, 1990
DATE

Judith A. Yaskin
JUDITH A. YASKIN, COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL
PROTECTION