



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SCOTT A. WEINER, 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
OCTOBER 24, 1990 AND NOVEMBER 28, 1990
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 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 October 24, 1990 and November 28, 1990 adopted amendments to its approved district solid waste management plan. The October 24, 1990 amendment proposed to include in the district plan the Dover General Hospital and Medical Center small-scale medical waste incinerator, located in the Town of Dover, Morris County, and the November 28, 1990 amendment proposed to include in the district plan the Sandoz Pharmaceutical Corporation small-scale incinerator, located in East Hanover Township, Morris County.

The October 24, 1990 amendment was received by the Department of Environmental Protection (Department or DEP) on November 21, 1990 and the November 28, 1990 amendment was received on December 21, 1990 and copies of both amendments were distributed to various state level review agencies for review and comment, as required by law. The Department has reviewed these amendments, as well as the entire Morris County District Solid Waste Management Plan, and has determined that the amendments adopted by the Morris County Board of Chosen Freeholders on October 24, 1990 and November 28, 1990 are 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. As further specified in Sections B. and C. below, these deficiencies concern the lack of available suitable sites for solid waste facilities, transportation routes to suitable sites, and a solid waste financial plan.

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 have studied and reviewed the October 24, 1990 and November 28, 1990 amendments 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 these plan amendments are consistent with the Statewide Solid Waste Management Plan.

In addition, the Department circulated the plan amendments to sixteen review agencies and solicited their review and comment. Pursuant to N.J.S.A. 13:1E-24a(2) and (3), these agencies included various agencies, bureaus, and divisions within the Department as well as the Board of Public Utilities (BPU). Among these agencies were the following:

Division of Environmental Quality, DEP
Division of Water Resources, DEP
Division of Coastal Resources, DEP
Division of Parks and Forestry, DEP
Division of Fish, Game and Wildlife, DEP
Division of Solid Waste Management, DEP
Board of Public Utilities
Green Acres Program, DEP

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 October 24, 1990 Amendment

The following agencies did not object to the October 24, 1990 proposed plan amendment:

Division of Water Resources, DEP
Division of Fish, Game and Wildlife, DEP
Division of Coastal Resources, DEP
Department of Agriculture
Department of Community Affairs
Department of Transportation
Board of Public Utilities
Green Acres Program
New Jersey Turnpike Authority

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

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

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

Division of Solid Waste Management, DEP
Division of Environmental Quality, DEP
Division of Parks and Forestry, DEP

2. Agency Participation in the Review of the November 28, 1990 Amendment

The following agencies did not object to the November 28, 1990 proposed plan amendment:

Division of Coastal Resources, DEP
Division of Water Resources, DEP
Division of Fish, Game and Wildlife, DEP
Division of Parks and Forestry, DEP
Department of Agriculture
Department of Community Affairs
Department of Transportation
Board of Public Utilities
Green Acres Program, DEP
New Jersey Turnpike Authority

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

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

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

Division of Solid Waste Management, DEP
Division of Environmental Quality, DEP

3. Comments Received for the October 24, 1990 and November 28, 1990 Amendments

Comment: The Division of Environmental Quality issued the same comment for both the October 24, 1990 amendment and the November 28, 1990 amendment stating 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 subchapter 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 accepted much less stringent control 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. If feasible, 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 retrofit of better air pollution control for existing waste incinerators.

At this time any permit application for waste incineration should include:

- a. Air quality modelling and an evaluation of downwash, which demonstrate sufficient stack height.

- b. Cancer risk assessment for metals and dioxin, demonstrating low cancer risk on and off site.
- c. Continuous emission monitoring and recording for carbon monoxide, oxygen, and secondary chamber temperature.
- d. Extensive stack testing after construction.
- e. 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.

Also, the Division of Environmental Quality noted that the inclusion of small-scale medical and certain industrial waste incinerators in solid waste management plans is consistent with the plans and programs administered by this division if these incinerators comply with all air pollution control requirements. The inclusion of small apartment house incinerators, and other incinerators for which the waste could be directed to a better controlled resource recovery facility, is generally not consistent with air pollution control plans.

For municipal solid waste which could be directed to a better controlled larger incinerator, the Department would subject a small incinerator to the same standards as new large incinerators. A consequence of this is that permits for apartment house incinerators which do not achieve such standards would likely be disapproved. Other specialty incinerators such as for hospital waste or sewage sludge can be permitted consistent with the above guidelines. Existing apartment house and other small incinerators should be phased-out as better controlled resource recovery facilities become operational.

Response: I have noted the comments of the Division of Environmental Quality concerning the October 24, 1990 amendment and the November 28, 1990 amendment and, by copy of this certification, I notify Morris County, Sandoz Pharmaceutical Corporation and Dover General Hospital and Medical Center of these comments.

Comment: The Division of Parks and Forestry, Office of New Jersey Heritage, commented concerning the October 24, 1990 amendment that Dover General Hospital is described in the Morris County Historic Sites Inventory as a collection of buildings constructed in the 1920's. Although most of the buildings have been modified, the "Nurses Home" building appears to be relatively intact. It is requested that site plans of the proposed new construction and photographs of the Nurses Home building and the project site showing the visual relationship between the two areas be submitted for further review.

Response: I respond to this comment by stating that the site plans for the new Dover Hospital medical waste incinerator will be submitted to the Department's Division of Solid Waste Management (DSWM) for review as a

part of the permitting process for the facility. Upon submission of the site plans, the Office of New Jersey Heritage will be invited to comment upon the site plans.

Comment: The Division of Solid Waste Management issued the same comment for both amendments stating that any incinerator is required to obtain a solid waste facility permit in accordance with N.J.A.C. 7:26-2B. Also, on March 6, 1989, the "Comprehensive Regulated Medical Waste Management Act," P.L. 1989, c. 34, was signed into law. This legislation provides a distinction between a commercial facility and a noncommercial facility and defines a noncommercial 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 in their respective district solid waste management plans. Unless a facility was acting as a commercial facility prior to March 6, 1989 and was, therefore, grandfathered in the district plan, approval of a medical waste incinerator must be limited to a noncommercial facility only.

Further, the DSWM commented that on December 27, 1989, Morris County adopted a multifaceted amendment to its district plan. Among other things, this amendment redesignated the site of the district's resource recovery facility from Rockaway Township to Roxbury Township and increased its capacity to 1340 tons per day. On July 2, 1990, former Commissioner Yaskin remanded the amendment for modification consistent with the final report and recommendations of the Emergency Solid Waste Assessment Task Force pursuant to Executive Order #8. On August 6, 1990, the Task Force issued its Final Report. Recommendations in the Final Report included, among others, the goal of maximizing recycling and source reduction and regionalization of long-term solid waste facilities. Consistent with the recommendations of the Final Report, former Commissioner Yaskin wrote to Morris County Freeholder Director Dedio on January 7, 1991 directing the county to hold a public hearing and adopt another amendment to indicate its long-term solid waste disposal strategy and analysis of regional options. To date, a revised amendment has not been adopted by Morris County and submitted for review by the Department.

Finally, the DSWM commented that Morris County has not indicated how it will achieve the 60% recycling rate by December 31, 1995 and source reduction through implementation of the programs called for by the Emergency Solid Waste Assessment Task Force Final Report of August 6, 1990.

Response: By copy of this certification, I am notifying Morris County, Sandoz Pharmaceutical Corporation and Dover General Hospital and Medical Center of the comments and requirements of the DSWM and directing Morris County to, within 180 days of the date of this certification, adopt a subsequent amendment addressing the requirements of the Task Force Final Report.

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

I, Scott A. Weiner, 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 October 24, 1990 and November 28, 1990 amendments to the approved Morris County District Solid Waste Management Plan and certify to the Morris County Board of Chosen Freeholders that the October 24, 1990 and November 28, 1990 amendments are approved as further specified below.

1. October 24, 1990 Amendment

The district plan inclusion of the Dover General Hospital and Medical Center small-scale replacement incinerator located on Lots 2 and 3, Block 2-02, in the Town of Dover, Morris County, is approved. In accordance with the plan amendment submission, the incinerator will operate for eight (8) hours a day, six (6) days a week, at a rate up to 500 pounds per hour. Materials to be incinerated shall be restricted to medical and hospital waste as defined at N.J.A.C. 7:26-3A. Under no circumstances may the hospital incinerate recyclable materials mandated by the Town of Dover or Morris County, and the company must submit quarterly recycling reports to both entities. Dover General Hospital and Medical Center shall dispose of its nonmedical hospital waste pursuant to the Morris County District Solid Waste Management Plan and furnish proof of said disposal to Morris County. Dover General Hospital and Medical Center will be allowed to accept medical waste from local generators without a BPU rate review providing that the fees charged are no more than the costs needed to operate the facility. If the hospital decides to operate its incinerator commercially at a profit, it will be required to apply for a BPU tariff.

2. November 28, 1990 Amendment

The district plan inclusion of the existing Sandoz Pharmaceutical Corporation small-scale incinerator located on Lot 12, Block 99, in East Hanover Township, Morris County, is approved. The plan amendment has proposed that the unit will have a maximum firing rate of 780 pounds per hour on a 24 hours per day, seven days per week basis. The firing capacity will be the subject of more detailed review when a permit application is submitted. Materials to be incinerated shall be restricted to nonhazardous, noninfectious waste generated on site of the East Hanover Township campus. Under no circumstance may Sandoz Pharmaceutical Corporation incinerate recyclable materials mandated by East Hanover Township or Morris County, and the company must submit quarterly recycling reports to both entities. Sandoz Pharmaceutical Corporation shall dispose of its nonprocessible waste pursuant to the Morris County District Solid Waste Management Plan and furnish proof of said disposal to Morris County.

Under the Comprehensive Regulated Medical Waste Management Act (P.L. 1989, c. 34) a moratorium of at least one year, or until the new state plan is completed, is imposed on DEP 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 facilities limited to noncommercial use. The Sandoz Pharmaceutical Corporation incinerator has been operating for several years. The Department notes that such operation was for noncommercial use and entailed the incineration of wastes generated on site at the East Hanover Township plant.

Nevertheless, Sandoz Pharmaceutical Corporation as well as Dover General Hospital and Medical Center must submit to the Department a certified affidavit verifying the noncommercial status of each facility. This affidavit, a sample of which may be obtained by contacting the DEP, DSWM, Bureau of Special Waste Planning, must be submitted within 45 days of the date of this certification. In addition, by copy of this certification, the applicants are hereby directed to contact the DEP, DSWM, Bureau of Resource Recovery, to obtain a solid waste facility permit and to contact the DEP, Division of Environmental Quality, Bureau of Air Quality Planning and Evaluation, to obtain an air pollution apparatus permit. 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 other 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.

3. Morris County District Solid Waste Management Plan Deficiencies

I have reviewed the entire Morris County District Solid Waste Management Plan, including these amendments, 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(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 is 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 into an interdistrict agreement with another New Jersey district for the use of landfill disposal capacity. Further, the county has not yet met the requirements of former Commissioner Yaskin's letter of January 7, 1991 to Freeholder Director Dedio in which she directed the county to hold a public hearing and adopt an amendment to address the recommendations of the Task Force Final Report prior to considering any further development of the resource recovery facility planned for Roxbury Township. While I acknowledge that former Commissioner Yaskin's January 7, 1991 letter did not require action by the Freeholder Board by a certain date, until the county addresses source reduction, 60% recycling and regionalization, the plan remains deficient with respect to N.J.S.A. 13:1E-21b(3). I am aware, as you know, of the creation of a Morris County Solid Waste Task Force to explore nonincineration options for solid waste disposal, and applaud this endeavor as a positive action in addressing the Task Force recommendations.

- b. 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 has not submitted to the Department a study summarizing transportation costs and routes to available suitable sites for solid waste disposal facilities. Therefore, Morris County remains deficient with respect to N.J.S.A. 13:1E-21b(4).

- c. 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).

Finally, Morris County is hereby directed within 180 days of the date of this certification to submit to the Department a subsequent amendment which indicates how the county will achieve the 60% recycling rate by December 31, 1995 and, also, how it will achieve source reduction, in light of increased solid waste generation from population growth, through implementation of the programs called for by the Emergency Solid Waste Assessment Task Force Final Report of August 6, 1990. Further, the amendment submission must address the provisions of N.J.S.A. 13:1E-21b(3) noted above in terms of the need for additional in-county facility siting, technology selection, duration of dependence upon out-of-state disposal capacity and plans for in-state regionalization.

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 the within amendments to the Morris County District Solid Waste Management 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 DEP and operating pursuant to a contract as herein described, shall be deemed to be in violation of these amendments 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 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 collector/haulers registered with the DEP and operating within Morris County and affected by the amendments contained herein shall operate in compliance with these amendments 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 their registration to operate a solid waste facility or a collection system issued thereunder by the DEP 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 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 (N.J.A.C. 7:26-6).

4. Certification to Proceed with the Implementation of Plan Amendments

This document shall serve as the certification of the Commissioner of the DEP to the Morris County Board of Chosen Freeholders and pursuant to N.J.S.A. 13:1E-24c and f, the County of Morris 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 N.J.A.C. 7:26-1.4 and -2.13.

6. Effective Date of Amendments

The amendments 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 DEP 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, 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 of the Amendments 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 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 October 24, 1990 and November 28, 1990.

4-19-91

DATE



SCOTT A. WEINER

COMMISSIONER

DEPARTMENT OF ENVIRONMENTAL PROTECTION