



STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
CHRISTOPHER J. DAGGETT, COMMISSIONER  
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(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 NOVEMBER 21, 1988  
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. Under the New Jersey Solid Waste Management Act, counties are given the primary role in solid waste management planning. Counties are required to develop comprehensive plans which, among other things, describe a strategy for handling waste generated in the county, designate the sites for sufficient facilities to implement the strategy, describe the collection/haul routes, and identify the financial and institutional arrangements for implementation of the required facilities and activities.

It is the policy of the Department of Environmental Protection to affirm the primacy of the counties in this process. The Department has provided advice and support for the required decisions, but until recently, has chosen not to directly intervene in the basic decisions regarding strategy, siting, and routing except as required to ensure that county activities conform to the requirements of the Act. However, the Act does provide that the Department may modify a district plan found to be deficient and propose amendments to such plans to remedy such deficiencies.

The Department of Environmental Protection previously determined that the solid waste management situation in Morris County, as well as in other counties, had reached a critical stage and that contingency measures were necessary to provide interim disposal capacity until replacement facilities became operational. Accordingly, on January 17, 1986, the Department proposed an amendment to the Morris County District Solid Waste Management Plan. The amendment proposed the incorporation of a short-term disposal strategy to provide for the development of a regional transfer station system to process the county's waste for transport to out-of-district disposal facilities.

To implement this short term strategy, the Department issued a Request For Proposals (RFP) document which sought information from private entities interested in the siting, design, construction, and operation of an in-county transfer station(s) to provide for out-of-district waste disposal for Morris County. In response to the RFP, the DEP selected a proposal from Morris County Transfer Station, (MCTS) Inc. which included two transfer stations, one to be located in Mt. Olive Township and the other in Parsippany-Troy Hills Township, which would transport the solid waste generated in Morris County to out-of-state disposal facilities. Subsequently, the Department proposed an amendment to the Morris County plan on April 1, 1987, incorporating the two transfer station sites. The Department's amendment also proposed inclusion of operational plans and waste flow directives to both the Mt. Olive Township and Parsippany-Troy Hills Township sites.

On July 28, 1987, following the required public hearing and comment period, the Department approved the proposed amendment with modifications to include collection and transportation routes. With respect to the facility located in Parsippany-Troy Hills, which is the subject of this proposed amendment, the designated truck routes directed all solid waste haulers to access the transfer station from Interstate Routes 80 and 280 and to exit the facility using Interstate Route 280.

Further, on December 29, 1987, the Department and the Board of Public Utilities (the Board) adopted an Emergency Redirection Order directing all solid waste haulers collecting trash in specific municipalities in Morris County to begin disposing of refuse at the MCTS, Inc. Transfer Stations. The Redirection Order contained a notice instructing Morris County haulers to comply with all aspects of the Morris County District Solid Waste Management Plan.

In response to the December 29, 1987 Redirection Order, an application for emergent relief was filed on December 31, 1987, in the Appellate Division of Superior Court by J. Filiberto Sanitation, Inc. (JFS). JFS alleged that it could not comply with the redirection order because of the requirement that it abide by all aspects of the District Solid Waste Management Plan. JFS contended that the use of the interstate highway system, as designated for the transfer station in Parsippany-Troy Hills, would result in the violation of rear axle weight limitations governing interstate highways. The Court remanded the matter to the Department and the Board on January 6, 1988, for a joint determination following a "trial type" hearing by the Office of Administrative Law. The court also stayed the portion of the Morris County District Solid Waste Management Plan which required the use of interstate highways in accessing the transfer station. On January 12, 1988, the New Jersey Supreme Court vacated the stay. A one month hearing began on February 16, 1988, and the record was closed on April 29, 1988. Administrative Law Judge (ALJ) Solomon A. Metzger filed his report on this matter on May 4, 1988. The Department and the Board reviewed the entire record, ALJ Metzger's report and all exceptions filed, prior to entering their decision entitled Findings and Conclusions on Remand on June 10, 1988.

The final decisions of the Department and the Board are specified below:

- a. "The truck routes contained in the Plan Amendment are to remain in effect with the following modification: the requirement that rear loading packer vehicles must access the facility in Parsippany-Troy Hills on interstate highways is administratively stayed. All other vehicles including roll-offs must follow the routes set forth in the Plan Amendment. All vehicles exiting the facility must follow the routes in the Plan Amendment."
- b. "We remand the April 1, 1987 Amendment to the Morris County District Solid Waste Management Plan to the DEP for modification of the access routes to the Morris County Transfer Station in Parsippany-Troy Hills. The modification shall be adopted by the Department pursuant to the procedures specified in the Solid Waste Management Act and shall be undertaken in close consultation with Board staff. When formulating the modification, the Department may consider the aforementioned secondary questions, including the allocation of traffic on local roads, certification of vehicles that are not presently capable of meeting federal weight limits, and modified use of ejector plates on packer vehicles."
- c. "The Board of Public Utilities shall consider whether to require all new solid waste vehicles to be certified as capable of complying with the requirements of the Federal Bridge Formula."

In light of the above requirements of the June 10, 1988 Findings and Conclusions on Remand, the Department, the Board, and representatives of Morris County met with representatives of East Hanover and Parsippany-Troy Hills Township on July 21, 1988. The purpose of this meeting was to discuss alternative access routes with those communities that could be affected by a modification to the mandatory route. On November 21, 1988, the Department proposed an amendment to the Morris County District Solid Waste Management Plan in accordance with the Department and Board's

June 10, 1988 Decision. The amendment reflects the portion of the decision addressing access routes for rear loading packer vehicles and the allocation of traffic on local roads. The amendment also reflects the consensus reached at the July 21, 1988 meeting. This route allows rear loading packer vehicles to access the facility without utilizing any portion of an interstate highway.

The amendment was considered complete for state level review on February 8, 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 as proposed by the Department of Environmental Protection on November 21, 1988, 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 Proposed by the Department

1. State Agency Review Process

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

The Division of Environmental Quality commented that trucks should avoid the area of the New Road exit to Route 280 if improvements have not been completed at the hot spots identified in the 1982 State Implementation Plan. In response, the Department notes that the plan amendment will actually diminish the amount of traffic at that intersection. The plan amendment will direct all rear loading packer vehicles accessing the facility to an alternate route which will avoid the subject exit.

The Department of Transportation (DOT) commented that the proposed amendment was acceptable, subject to the condition that all vehicles using the transfer station abide by all applicable Federal and State vehicle dimension and weight limitations. In response, the Department concurs with the DOT's

comments. As indicated in Section A., the amendment was necessary to correct a situation in which haulers contended the mandatory routes forced them to travel on a roadway which had restrictions that their vehicles could not meet.

The Division of Solid Waste Management (DSWM) commented that existing traffic studies indicate that the Route 46 and Edwards Road intersection can handle the additional transfer station traffic without Level of Service degradation. However, DSWM has some reservations regarding the impacts of additional truck traffic on sensitive receptors located along Edwards Road. In addition, Condition 20 of the Master Performance Permit (MPP) for the MCTS facility in Parsippany-Troy Hills Township requires collection vehicles to access that facility using the routes contained in the Certification of the April 1, 1987 amendment to the Morris County plan. In response, the Department acknowledges that sensitive receptors along Edwards Road may be impacted by the additional truck traffic. Therefore, in the event that any such impacts are brought to the Department's attention, we will assist the affected parties in an attempt to mitigate those impacts. Second, in reference to the truck routes contained within the MPP for this facility, the June 10, 1989 Decision administratively stayed the requirement that rear loaded packer vehicles access the facility in Parsippany-Troy Hills by interstate highway. This certification designates the new access routes for rear loaded packer trucks. The MPP is being modified to reflect this change in the truck routes.

## 2. Summary of Public Comment Process

In accordance with the requirements of N.J.S.A. 13:1E-23, a public hearing on the proposed amendment was conducted by the Department on January 5, 1989, at the Parsippany-Troy Hills Public Library in Parsippany, New Jersey. Notice of this hearing was published in the Star Ledger and the Daily Record on December 13th and December 20, 1988. The public comment period extended through January 25, 1989. The Department received testimony from two (2) individuals at the public hearing, and written comments were also received from two (2) individuals. The questions and comments raised during these public proceedings have been addressed in the Response to Public Comment Document included within this certification as Appendix A.

## C. Certification of Morris County District Solid Waste Management Plan Amendment

I, Christopher J. Daggett, 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, do hereby adopt and promulgate the November 21, 1988 amendment to the approved Morris County District Solid Waste Management Plan and certify to the Morris County Board of Chosen Freeholders that the November 21, 1988 amendment is approved as further specified below.

1. Collection and Transport Routes - To minimize local traffic impacts in the vicinity of the Parsippany-Troy Hills transfer station, the traffic routes to be used are as follows:

a. Routes to the transfer station facility in Parsippany-Troy Hills

All collection vehicles, with the exception of rear loaded packer trucks, will access the facility using eastbound Interstate 80 to eastbound Interstate 280, continuing on Interstate 280 to the Eisenhower Parkway exit, then return westbound on Interstate 280 to the New Road Exit, turning right onto New Road, and then right onto Edwards Road to the transfer station facility.

All rear loaded packer trucks will access the facility on eastbound Route 46 to Edwards Road, continuing on Edwards Road to the transfer station facility.

b. Routes from the transfer station facility in Parsippany-Troy Hills.

All empty collection vehicles and loaded transfer trailers will exit the facility in Parsippany-Troy Hills by turning onto Edwards Road, left onto New Road, enter eastbound Interstate 280, and then continue eastbound to the Eisenhower Parkway Interchange, where they will complete a 180 degree turn using appropriate portions of the cloverleaf interchange, and enter westbound Interstate 280 to the appropriate destinations.

In addition, the Department has 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.

2. 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 absence of a comprehensive solid waste financial plan, 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 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 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 proposed by the Department of Environmental Protection on November 21, 1988, and further direct the Morris County Board of Chosen Freeholders to remedy those deficiencies outlined in Section C. of this certification as soon as possible.

0 5 JUL 1989

/s/ Christopher J. Daggett

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DATE

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CHRISTOPHER J. DAGGETT  
COMMISSIONER  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



APPENDIX A

NOVEMBER 21, 1988 MORRIS COUNTY PLAN AMENDMENT  
RESPONSE TO PUBLIC COMMENT DOCUMENT

1) COMMENT

Comment was received that the November 21, 1988 plan amendment did not address mandatory truck routing to the Morris County Transfer Station, Inc. (MCTS) facility in Mount Olive Township. The testimony indicated that an addendum to the Master Performance Permit (MPP) for the MCTS facility in Mount Olive Township requires solid waste vehicles from a number of Morris County municipalities to access the transfer station by utilizing a portion of Interstate 80.

RESPONSE

The June 10, 1988 Findings and Conclusions on Remand of the Department of Environmental Protection (Department) and the Board of Public Utilities (Board) specifically address truck routes to the MCTS facility in Parsippany-Troy Hills Township. These Findings and Conclusions stayed the requirement of the April 1, 1987 Amendment to the Morris County Solid Waste Management Plan that rear loading packer vehicles must access the transfer station in Parsippany-Troy Hills Township via interstate highway. The Findings and Conclusions also remanded the April 1, 1987 amendment to the Department for modification of the access routes to the Parsippany-Troy Hills facility. The November 21, 1988 amendment was prepared in response to these requirements. Truck routes to the MCTS facility in Mount Olive Township included within the April 1, 1987, amendment do not require the use of interstate highways, and were, therefore, not addressed in the November 21, 1988 amendment.

However, while the Morris County Solid Waste Management Plan does not designate the use of interstate highways in accessing the facility in Mount Olive Township, we acknowledge that an addendum to the MPP for this facility does require the use of Interstate 80. In this regard, the Division of Solid Waste Management's Bureau of Resource Recovery was informed of this inconsistency and is in the process of modifying the MPP for the Mount Olive facility in order to keep the designated truck routes consistent with the Morris County plan.

2) COMMENT

Comment was received objecting to the designation of Route 46 east to Edwards Road as the sole alternative access route to the transfer station site, when other options, specifically a combination of Route 46 east to Edwards Road, Route 46 to New Road, and Route 10 to Ridgedale Avenue were recommended in Administrative Law Judge Solomon A. Metzger's report of May 4, 1988. Such a dispersion of truck traffic among these three routes would avoid a significant impact to any one roadway. Furthermore, the failure to allow the use of these two additional options would cause solid waste haulers to travel considerable distances out of their way in accessing the transfer station. Finally, additional traffic studies by outside firms should be performed which evaluate the Department's routing proposal.

RESPONSE

The Department has determined that of the three Routes presented in Judge Metzger's recommendations, the Route 46 east to Edwards Road alternative is the best local option available. Furthermore, as only rear loaded packer vehicles will be required to utilize this route, traffic studies available to the Department indicate that the Route 46/Edwards Road intersection can handle the additional traffic without Level of Service degradation. Therefore, no further traffic studies will be required at this time. Additionally, since the original mandatory route required that haulers travel east on Interstate 280, the Route 46 east to Edwards Road alternative should not lead to a significant additional impact to local access roads.

3) COMMENT

Objections were received regarding the requirement that roll-off vehicles continue to utilize the interstate highway in accessing the transfer station, in light of Judge Metzger's May 4, 1988 Report.

RESPONSE

The Department agrees with the Findings and Conclusions on Remand. Accordingly, this plan amendment was prepared as required in the June 10, 1988 Decision which indicates that roll-off vehicles are not subject to the same rear weight distribution problems that are inherent in rear loaded packer vehicles. Indeed, unlike rear loaded packer vehicles, roll-off vehicles have no inherent design impediments to compliance with Federal Bridge Formula restrictions. Rather, compliance can be achieved through the cooperation of the solid waste hauler and his customers. Thus, the Department was required to provide an alternate access route for rear loaded packer vehicles, only.

4) COMMENT

Objections were received regarding the potential for a future requirement that all solid waste vehicles be certified as capable of complying with the requirements of the Federal Bridge Formula when loaded.

RESPONSE

The Board of Public Utilities was directed to investigate the certification process referred to above in the June 10, 1988 Findings and Conclusions on Remand. This requirement was included in the November 21, 1988 plan amendment merely as background information relating to the litigation involving the use of interstate highways by solid waste collection vehicles, and is, therefore, not the subject of that amendment. However, the BPU is in the process of investigating the impact of requiring that all solid waste vehicles be capable of complying with the Federal Bridge Formula. All appropriate public notice procedures will be followed if implementation of this option is pursued.