



STATE OF NEW JERSEY  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
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(IN THE MATTER OF CERTAIN AMENDMENTS) CERTIFICATION OF THE  
(TO THE ADOPTED AND APPROVED SOLID) NOVEMBER 28, 1989 AND DECEMBER 27, 1989  
(WASTE MANAGEMENT PLAN OF THE) AMENDMENTS TO THE MORRIS COUNTY  
(MORRIS COUNTY SOLID WASTE) DISTRICT SOLID WASTE MANAGEMENT PLAN  
(MANAGEMENT DISTRICT)

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 reviews and on November 28, 1989 and December 27, 1989 adopted amendments to its approved district solid waste management plan.

The November 28, 1989 amendment proposed to include into the district plan a contingency plan which would extend the use of the two existing transfer stations located in Mt. Olive and Parsippany-Troy Hills Townships, used for the processing of the county's solid waste prior to out-of-state disposal, until the implementation of the planned resource recovery facility or other approved disposal facilities. Also, the amendment proposed to include into the district plan the rate settlement agreement between the County of Morris, the Morris County Municipal Utilities Authority and Morris County Transfer Station, Inc. Morris County Transfer Station, Inc., owns and operates the two transfer stations listed above. The December 27, 1989 amendment proposed to include into the district plan the Morristown Memorial Hospital incinerator located in Morristown, and the Chilton Memorial Hospital incinerator, located in Pequannock Township.

The amendments were received by the Department of Environmental Protection on December 11, 1989 and February 8, 1990, respectively, and copies were distributed to various state level agencies for review and comment, as required by law. The Department has reviewed these amendments and has determined that the amendments adopted by the Morris County Board of Chosen Freeholders on November 28, 1989 and December 27, 1989 are approved as provided in N.J.S.A. 13:1E-24.

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, Judith A. Yaskin, Commissioner of the Department of Environmental Protection, have studied and reviewed the November 28, 1989 and December 27, 1989 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 Division of Solid Waste Management circulated the plan amendments 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. The results of these requests for comments are as follows:

1. November 28, 1989 Amendment

The following agencies did not object to the November 28, 1989 proposed plan amendment: the N.J.D.E.P. Divisions of Environmental Quality and Coastal Resources; the State Departments of Agriculture and Transportation; 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 Water Resources, Fish, Game and Wildlife and Parks and Forestry; the State Departments of Health, Community Affairs and the Public Advocate; the Green Acres Program, the New Jersey Turnpike Authority and the U.S. Environmental Protection Agency. The Board of Public Utilities and the Division of Solid Waste Management submitted substantive comments which are further addressed below.

The Board of Public Utilities (BPU) commented that they had no objection to the proposed November 28, 1989 plan amendment which includes within the district plan the rate settlement agreement. However, they call to the Department's attention the Final Order Adopting in Part and Modifying in Part Initial Decision Settlement, BPU Docket Numbers SE87111370 and SR89040359, between the County of Morris, the Morris County Municipal Utilities Authority and Morris County Transfer Station, Inc. This BPU order, dated March 5, 1990, approves the first 13 paragraphs of the settlement agreement and further modifies the settlement to reflect the fact that the reduced rates for 1990 take effect on the date of the order (March 5, 1990) rather than January 1, 1990. The BPU does not take any action concerning the remaining portions of the settlement agreement.

The Division of Solid Waste Management commented that the Department has established a goal of statewide self-sufficiency in solid waste disposal by December 31, 1992. The district plan inclusion of the continued out-of-state disposal and associated disposal rates beyond December 31, 1992 is only permitted as a part of the county's solid waste disposal contingency strategy. The Division also commented that with the continuation of out-of-state solid waste disposal, both the Resource Recovery Investment Tax revenues and the Solid Waste Services Tax revenues will be lost. Finally, the Division of Solid Waste Management commented that the extended use of the two Morris County Transfer Station, Inc., transfer stations beyond January 1, 1991, will require both facilities to obtain such authorizations from the Department as are required under N.J.A.C. 7:26.

The Department notes the comments of the Board of Public Utilities and the Division of Solid Waste Management concerning the November 28, 1989 amendment, and by copy of this certification, notifies Morris County of these comments.

2. December 27, 1989 Amendment

The following agencies did not object to the December 27, 1989 plan amendment: the N.J.D.E.P. Divisions of Water Resources, Fish, Game and Wildlife, Parks and Forestry and Coastal Resources; the State Departments of Agriculture and Transportation and the Green Acres Program. The following agencies failed to respond to our requests for comments: the State Departments of Health, Community Affairs and the Public Advocate; the Board of Public Utilities, the New Jersey Turnpike Authority, the New Jersey Advisory Council on Solid Waste Management and the U.S. Environmental Protection Agency. The Divisions of Environmental Quality and Solid Waste Management 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 foot (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:

- 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 charging capacity.

The Division also commented that the inclusion of small-scale medical and certain industrial waste incinerators is consistent with the plans and programs administered by that Division, provided these incinerators comply with all air pollution control requirements. The Division also recommends that other small incinerators, such as for apartment and commercial use, should be phased out and the waste directed to the resource recovery facility.

The Division of Solid Waste Management commented concerning the amendment that any small scale 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 or the issuance of a new permit by the Division of Environmental Quality pursuant to N.J.A.C. 7:27. Also, 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 on Departmental approval of any new commercial regulated medical waste incinerator until the Department and the Department of Health have submitted a comprehensive statewide medical waste management plan. 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. Unless a facility was acting as a commercial facility prior to March 6, 1989 and was, therefore, grandfathered into the district plan, approval of a medical waste incinerator must be limited to its existing or non-commercial status.

The Department notes the comments of the Divisions of Environmental Quality and Solid Waste Management concerning the December 27, 1989 amendment and, by copy of this certification, notifies Morris County of these comments.

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

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 November 28, 1989 and December 27, 1989 amendments to the approved Morris County District Solid Waste Management Plan and certify to the Morris County Board of Chosen Freeholders that the November 28, 1989 and December 27, 1989 amendments are approved as further specified below.

1. November 28, 1989 Amendment

The inclusion within the district plan of a contingency plan, which would extend the use of the two existing transfer stations located in Mt. Olive and Parsippany-Troy Hills Townships for the processing of the county's solid waste prior to out-of-state disposal until the operation of the planned resource recovery facility or other approved disposal facilities, is approved. The approval of the out-of-state disposal strategy does not negate the Department's policy of statewide self-sufficiency in solid waste disposal by December 31, 1992, and is recognized only as a contingency strategy. Since the planned Morris County disposal facilities will not be operational by that date, the county is hereby directed to reach an interdistrict agreement with another county to ensure in-state disposal capacity until other disposal facilities are permitted and incorporated within the Morris County district plan. Further, the operation of the two Morris County transfer stations beyond January 1, 1991 will require both facilities to obtain such authorization from the Department as are required under N.J.A.C. 7:26.

The inclusion within the district plan of the rate settlement agreement, which was the subject of the Final Order Adopting in Part and Modifying in Part Initial Decision Settlement, BPU Docket Numbers SE87111370 and SR89040359, between Morris County Transfer Station, Inc., the Morris County Municipal Utilities Authority and the County of Morris is approved. In brief, the settlement agreement provides for a total revenue requirement of \$249.6 million dollars for the years 1990 through 1994. Under the settlement agreement, the above revenue requirement would be generated by charging rates exclusive of applicable taxes and host community benefits at the transfer stations in accordance with the following schedule:

<u>Time Period</u>	<u>Types 10, 13, 23, &amp; 25</u>	<u>Type 10 (non-infectious hospital) and type 27</u>
3/5/90 - 12/31/90	\$110.06	\$137.18
1/1/91 - 12/31/91	\$117.87	\$149.56
1/1/92 - 12/31/92	\$124.08	\$160.31
1/1/93 - 12/31/93	\$130.61	\$164.45
1/1/94 - 12/31/94	\$137.47	\$173.01

2. December 27, 1989 Amendment

The district plan inclusion of the following small-scale incinerators is approved.

- a. Morristown Memorial Hospital, 100 Madison Avenue, Morristown, Morris County. This is a replacement incinerator to be restricted to accepting medical waste generated by both hospital divisions and local physicians for a cost-based fee not in excess of the cost actually incurred by the facility for the treatment or disposal of the regulated medical waste.

- b. Chilton Memorial Hospital, 97 West Parkway, Pequannock Township, Morris County. This represents inclusion of an existing hospital incinerator which shall be restricted to accepting medical waste generated by the hospital and local Morris County medical waste generators for a cost-based fee not in excess of the cost actually incurred by the facility for the treatment or disposal of regulated medical waste.

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 is imposed on Departmental approval or consideration of any new commercial medical waste incinerator until the Department and the Department of Health have submitted a comprehensive statewide medical waste management plan. 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 non-commercial use. Furthermore, prior to the operation of either of the above noted small scale incinerators, the applicant must submit to the Department a certified affidavit verifying the non-commercial status of the facility. This affidavit, a sample of which may be obtained by contacting the NJDEP, Division of Solid Waste Management, Bureau of Special Waste, must be submitted within 45 days of the date of this certification. 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.

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 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 Department of Environmental Protection 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 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 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 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 Amendments

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 amendments contained 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 Department of Environmental Protection pursuant to its authority under the law. The Morris County District Solid Waste Management Plan, including any amendment made thereto,

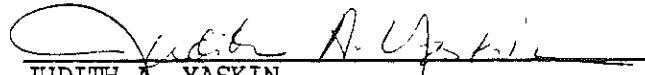


shall conform with the Statewide Solid Waste Management Plan. The Department has published a Statewide Solid Waste Management Plan with appendices which includes the Department's planning guidelines and rules, regulations, and orders of the Department, including the interdistrict and intradistrict waste flow rules, and also includes the compilation of individual district plans and amendments as they are approved.

E. Certification of Approval of the 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 November 28, 1989 and the December 27, 1989 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 November 28, 1989 and December 27, 1989.

5/14/91  
DATE

  
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JUDITH A. YASKIN  
COMMISSIONER  
DEPARTMENT OF ENVIRONMENTAL PROTECTION