



STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
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(IN THE MATTER OF CERTAIN AMENDMENTS)
(TO THE ADOPTED AND APPROVED SOLID)
(WASTE MANAGEMENT PLAN OF THE)
(CAMDEN COUNTY SOLID WASTE)
(MANAGEMENT DISTRICT)

CERTIFICATION
OF THE OCTOBER 11, 1990
AMENDMENT TO THE CAMDEN 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 July 17, 1980, the Department approved, with modifications, the Camden 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 Camden County Board of Chosen Freeholders completed such a review and on October 11, 1990 adopted an amendment to its approved district solid waste management plan. The amendment redirects solid waste collected by or on behalf of Berlin Borough and Berlin Township away from the Winslow Township Transfer Station to direct out-of-state disposal until the South Camden Resource Recovery Facility commences operation.

The amendment was received by the Department of Environmental Protection on October 24, 1990 and copies were distributed to various state level agencies for review and comment, as required by law. The Department has reviewed this amendment and has determined that the amendment adopted by the Camden County Board of Chosen Freeholders on October 11, 1990 is rejected as provided in N.J.S.A. 13:1E-24.

B. Findings and Conclusions with Respect to the Camden County District Solid Waste Management Plan Amendment

Pursuant to N.J.S.A. 13:1E-24a(1), I, Scott A. Weiner, Commissioner of the Department of Environmental Protection have studied and reviewed the October 11, 1990 amendment to the Camden 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 inconsistent with the Statewide Solid Waste Management Plan.

In addition, the Department circulated the plan amendment to seventeen review agencies and solicited their review and comments. 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. Among these agencies were the following:

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

Of these agencies, the following agencies did not object to the proposed plan amendment:

- Division of Water Resources
- Division of Environmental Quality
- Division of Parks and Forestry
- Division of Fish, Game and Wildlife
- Division of Coastal Resources
- Green Acres Program
- New Jersey Turnpike Authority
- Department of Transportation

The following agencies failed to respond to our requests:

- Pinelands Commission
- Department of Agriculture
- Department of Community Affairs
- Department of Health
- Department of the Public Advocate
- U.S. Environmental Protection Agency

The following agencies provided substantive comments as further described below:

The Board of Public Utilities (BPU) commented that the officials of both Berlin Borough and Berlin Township committed their respective municipalities to disposing of waste collected by each at the Winslow Township Transfer Station. These commitments took the form, in each instance, of a resolution by the respective governing body. Based on the resolutions and the implied guarantee of specific amounts of waste from each town, Winslow Township obtained a bond of \$1.7 million to construct the transfer station.

In its Order in Docket Nos. SE89090752 and SR89090771, dated July 26, 1990, the Board issued a Certificate of Public Convenience and Necessity to Winslow Township to operate a transfer station and an interim rate of \$92.45 per ton (exclusive of taxes). The interim rate was based on an annual revenue requirement of \$2,021,247 and anticipated tonnage, which included Berlin Borough and Berlin Township waste. In the course of the proceedings, the Board's staff found that over three years of operations (1985-1988) of the Winslow Township Landfill, waste originating in Berlin Borough and Berlin Township accounted for approximately 25% (18,000 cubic yards) of the total disposed of on the now closed site. If this figure of 25% holds true for the transfer station, and Berlin Borough and Berlin Township wastes are redirected, then Winslow Township will lose approximately \$504,000 in revenues each year.

One of the Board's obligations in this matter is to ensure the economic well-being of the transfer station, which is a public utility. To allow such a drastic reduction in revenue would mean that Winslow Township would be obliged to file for a rate increase to compensate for the lost revenues. A rate increase might result in the demand of the other municipalities now directed to the Winslow Township facility to be permitted to ship their wastes directly to Pennsylvania. If further redirection were to be allowed, Winslow Township would be left with a facility it built based on the assurance that the other municipalities would use the transfer station. The possibility exists that Winslow Township would be unable to support its bond requirements were this to occur.

On November 14, 1990, Board staff attended a meeting with representatives from Berlin Borough, Berlin Township, and the Department to discuss this proposed waste flow. At this meeting, it was disclosed that Berlin Borough and Berlin Township deliver approximately fifty (50) tons of solid waste each to the Winslow Township Transfer Station per week and that they would save about twenty dollars (\$20.00) per ton or one thousand dollars (\$1,000) per week by shipping the waste out-of-state rather than dispose of the waste at the Winslow Township Transfer Station. Board staff calculates that there could be an increase of twenty-eight dollars (\$28.00) or a new rate of one hundred and twenty-one dollars and thirty cents (\$121.30) per ton to the three remaining towns of Winslow, Chesilhurst and Waterford, were Berlin Borough and Berlin Township permitted to bypass the transfer station. If the redirection occurs when the South Camden resource recovery facility becomes operational and all of Camden County would be paying \$73.00 to \$77.00 per ton at that facility, the three towns directed to the Winslow Township Transfer Station would be paying \$121.30 or approximately \$46.00 more.

At this time, the Board can not recommend approval of this plan as submitted as it would severely impact financially on Winslow, Chesilhurst and Waterford. Absorption of the transfer station and its associated bond obligations in the overall Camden County solid waste disposal system should be considered as an alternative approach.

The Division of Solid Waste Management commented that the amendment refers to the agreement made between Berlin Township, Berlin Borough and Winslow Township regarding the use of the Winslow Township Transfer Station. Camden County's September 22, 1988 solid waste management plan amendment included resolutions by Berlin Borough and Berlin Township expressing their intent to use the proposed Winslow Township Transfer Station upon closure of the Winslow Township Landfill. Due to this agreement, Winslow Township obtained financial bonding and constructed the transfer station for use by Winslow Township, Berlin Borough, Berlin Township, Chesilhurst Borough and Waterford Township. The proposed tipping fee of \$95.00 per ton was based upon the expected tonnage received from these municipalities. Should Berlin Borough and Berlin Township haul their waste out-of-state and avoid using the Winslow Township Transfer Station, both governments will realize savings to their transportation costs. However, the other municipalities that continue to use the Winslow Township Transfer Station will undoubtedly pay higher rates at the facility to offset the losses caused by a reduction in the available waste stream. Also, the waste that could be disposed of directly out-of-state must return to the county as provided for in the service agreement for the South Camden Resource Recovery Facility. This waste will be necessary in order for the county to generate revenue to repay their debt.

Also, the Division noted that in-state solid waste facilities have waste inspection programs in place which allow for enforcement of New Jersey's Statewide Mandatory Source Separation and Recycling Act (N.J.S.A. 13:1E-99.11). Solid waste which is not directed to an in-state facility can not easily be checked for the presence of designated recyclable materials, which must be source separated from the municipal solid waste stream as per the Statewide Mandatory Source Separation and Recycling Act, thus making enforcement more difficult.

Further, the Division noted that on April 14, 1988 Camden County adopted an amendment which redirected privately collected solid waste types 10, 13, 23, 25 and 27 generated from within Berlin Borough and Berlin Township away from disposal at the Winslow Township Landfill to out-of-state disposal while

providing for continued disposal at the landfill of municipally collected solid waste types 10, 13, 23, 25 and 27 from Berlin Borough and Berlin Township. This amendment, which was certified on August 1, 1988, sought to extend the remaining capacity of the Winslow Township Landfill. This amendment was followed by another amendment of September 22, 1988 which directed the municipally collected solid waste types 10, 13, 23, 25 and 27 from Berlin Borough and Berlin Township to the Winslow Township Transfer Station prior to out-of-state disposal. This latter amendment was certified by the Department on February 16, 1989. The waste flows specified in both amendments were the subject of a waste flow rule proposal of the Department and the Board of Public Utilities on February 5, 1990 and a public hearing on February 15, 1990. No comments relative to this issue were received. Consequently, the waste flow rule was adopted without change on February 5, 1991. The waste flows for Berlin Borough and Berlin Township as they appeared in the March 4, 1991 issue of the New Jersey Register at N.J.A.C. 7:26-6.5(d)3 ii. state "All solid waste types 10, 13, 23, 25 and 27 generated in Berlin Borough and Berlin Township which is collected and transported by the public works departments of Berlin Borough and Berlin Township shall be directed to the Winslow Township Transfer Station when it becomes operational, facility number 0436I, located in Winslow Township, Camden County, prior to out-of-state disposal." The amendment of October 11, 1990 countermands all previous amendments and waste flow rule changes approved by this Department and should be rejected.

Finally, the Division noted that since Camden County adopted the October 11, 1990 amendment, Berlin Borough and Berlin Township have notified the Division of Solid Waste Management that they have switched from municipal collection of solid waste to private collection, thereby circumventing the required use of the Winslow Township Transfer Station for municipally collected solid waste. While this action does not represent a violation of the waste flow rules adopted on February 5, 1991, it does jeopardize the economics for continued operation of the Winslow Township Transfer Station and renders the purpose of this amendment a moot issue.

The New Jersey Advisory Council on Solid Waste Management expressed its concern with any proposal to redirect waste flows from a publicly-owned facility which has relied for its financing and construction on previously approved waste flows. Aside from any legal question of whether the county and the Department are empowered to alter waste flows under these circumstances, the council believes that as a matter of policy the state should not discourage local government from proposing, financing and implementing solutions by endangering the economic feasibility of those projects after they have been approved and financed. This Camden County amendment contains no analysis of the economic impact upon Winslow, Chesilhurst and Waterford, but it is assumed that their disposal costs would rise if Berlin Township and Berlin Borough were to send their waste elsewhere. Absent a plan to protect the ratepayers, taxpayers and bondholders, there is a concern that approval of this Camden County plan amendment would cast doubt on the credit worthiness of any local debt which relies on waste flow control, and would have an adverse affect on the willingness of local and regional authorities to step-up and implement solutions to their solid waste problems.

In response, the Department concurs with the comments of the Board of Public Utilities, the Division of Solid Waste Management and the New Jersey Advisory Council on Solid Waste Management and rejects in Section C. the redirection of solid waste generated in Berlin Borough and Berlin Township away from the

Winslow Township Transfer Station to direct out-of-state disposal. The rationale for this rejection is that subsequent actions taken by Berlin Borough and Berlin Township, as noted above, have rendered the intent of the proposed amendment a moot issue.

C. Certification of the Camden County District Solid Waste Management Plan Amendment

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 11, 1990 amendment to the approved Camden County District Solid Waste Management Plan and certify to the Camden County Board of Chosen Freeholders that the October 11, 1990 amendment is rejected as further specified below.

The redirection of solid waste types 10, 13, 23, 25 and 27 collected by or on behalf of Berlin Borough and Berlin Township away from the Winslow Township Transfer Station to direct out-of-state disposal until the South Camden Resource Recovery Facility commences operation is hereby rejected. This rejection is made since subsequent actions on the part of Berlin Borough and Berlin Township to change from solid waste collection by their respective Departments of Public Works to private collection services has rendered the original intent of the proposed amendment a moot issue.

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 Camden 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 Camden 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 Camden County and affected by the amendment contained herein shall operate in compliance with this amendment and all other approved provisions of the Camden 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 Plan

The provisions of the Camden 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. 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.


5. 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 Camden 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 Rejection of the Amendment 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 reject the amendment, as outlined in Section C. of this certification, to the Camden County District Solid Waste Management Plan which was adopted by the Camden County Board of Chosen Freeholders on October 11, 1990.

March 22, 1991
DATE


SCOTT A. WEINER
COMMISSIONER
DEPARTMENT OF ENVIRONMENTAL PROTECTION